

### Implementing the framework convention for the protection of national minorities in Georgia: a feasibility study

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# **Implementing the Framework Convention for the Protection of National Minorities in Georgia: A Feasibility Study**

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## **I. INTRODUCTION**

On being formally admitted to the Council of Europe in April 1999, Georgia pledged to sign and ratify both the Framework Convention for the Protection of National Minorities (FCNM) and the European Charter for Regional and Minority Languages within a year of its accession and to adopt a law on minorities based on the principles of Assembly Recommendation 1201 (1993). After long delays, the Georgian Parliament finally approved the FCNM at its final reading on 13 October 2005, formal ratification took place on 22 December and the Convention entered into force on 1 April 2006. Georgia is yet to sign and ratify the European Charter for Regional and Minority Languages and has still not adopted a law on minorities.

According to Article 25.1 of the FCNM, all signatories to the Convention must present a first state report ‘containing full information on the legislative and other measures taken to give effect to the principles set out’ within twelve months of its entering into force. Thus, Georgia is obliged to present its First State Report by 1 April 2007 at the latest. It is the aim of this paper to assist the Georgian government in the process of drafting the state report by drawing attention to those articles of the FCNM which have yet to take effect.

The paper is divided into three sections. The first part will review the process leading up to the formal ratification of the FCNM and will provide a series of explanations for the delays in ratification. It will then go on to outline the Georgian government’s plans to implement the FCNM and the institutions that will be involved in this process. The second part will highlight particular areas which the government will need to focus upon as it implements the treaty, namely: the definition of what constitutes a national minority, minorities in public administration, education, economic opportunities, media and access to information, minority family names and toponyms, culture and religion, and the rule of law. These areas partly correspond to competences of five working groups that have already been set up by the government under the office of the State Minister for Civil Integration to inform the process of implementation (see below), although additional topics have been added. The final section, the conclusion, will then draw the strands together and attempt to identify the key challenges Georgian government and Georgian society faces as it adopts the FCNM. At the end of the paper the Appendix gives an overview of all national minorities living in Georgia.

## II. BACKGROUND

### *1. Recent History*

Throughout its history, Georgia has been home to a highly diverse population. Falling under the sway of the Byzantine, Ottoman, Persian and Russian empires, the country has been subject to successive waves of migration and has suffered disproportionately from population displacement and even ethnic cleansing. As of today, the most numerous national minorities are Azeris, Armenians, Russians, Abkhazians, Ossetians, Kurds (Yezids) and Greeks in that order. As well as these relatively large minorities, there are also populations of smaller minorities such as Kists, Ukrainians, Assyrians and Jews. After the wars of 1991-93, which saw the *de facto* secession of the Autonomous Republic of Abkhazia and the former Autonomous oblast (region) of South Ossetia, the Abkhaz and Ossetian populations have remained largely confined to the two breakaway regions. Figure 1 shows the composition of the population as revealed by successive population censuses from 1979 to 2002.<sup>1</sup> The 2002 census was not carried out in Abkhazia or in those parts of the former Autonomous region of South Ossetia that are not controlled by the Georgian government and therefore clearly underestimates the size of the Abkhaz and Ossetian populations.

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<sup>1</sup> Sources: Sakartvelos Statistikis Sakhelmts'ipo Departamenti, *Sakartvelos Mosakhleobis 2002 Ts'lis Pireveli Erovnuli Saqoveltao Aghts'eris Shedegebi* (Tbilisi: 2003); Tsenral'noie Statistichieskoi Upravlenie Gruzinskoi SSR, *Itogi Bciesoyuznoi Perepisi Nacielieniia 1979 Goda po Gruzinskoi SSR* (Tbilisi, 1980).

**Figure 1: Ethnic Composition of Georgia (%) 1979-2002**

<b>Nationality</b>	<b>1979</b>	<b>1989</b>	<b>2002</b>
Georgians	68.8	70.1	83.8
Azeris	5.1	5.7	6.5
Armenians	9.0	8.1	5.7
Russians	7.4	6.3	1.5
Ossetians	3.2	3.0	0.9
Abkhaz	1.7	1.8	0.1
Yezids	0.5	0.6	0.4
Kurds			0.1
Greeks	1.9	1.9	0.3
Kists	N/A	0.1	0.2
Ukrainians	0.9	1.0	0.2
Assyrians	0.1	0.1	0.1
Jews	0.6	0.5	0.1

The discursive atmosphere that prevailed in the 1990s was not conducive to the adoption of international treaties to protect the rights of national minorities. One strand of discourse, which prevailed in the early 1990s following the election (and subsequent removal) of Georgia's first President Zviad Gamsakhurdia, was exclusivist and emphasised the privileged position of ethnic Georgians over non-Georgians. Within this discourse, minorities were portrayed as guests who were expected to feel grateful for being allowed to remain on Georgian territory. Following Gamsakhurdia's overthrow, the more virulent aspects of this discourse faded, although ethnicity was still understood in more or less exclusivist terms and non-ethnic (civic) identity remained weak.

In part, the conceptualization of national identity in exclusionary (ethnic), rather than civic terms was a legacy of the Soviet conception of nationality. Within the ethno-territorial structure of the USSR, territory and individual nationality were more or less independent of one another; there was an 'ethnic' tie between the individual and the national group, as well as a territorial tie between the group and the territory that was supposed to be its 'homeland', but

there was no 'civic' tie between the individual and the territory. Under such circumstances, a 'civic' form of nationalism based around the territorial entities of the USSR, most importantly the union republics that would later become independent, could not take root. The only form of 'civic identity' that was allowed to develop was self-identification as a 'Soviet citizen'. Following the collapse of the USSR, such self-identification was no longer an option. Moreover, in the more nationally-oriented republics such as Georgia, it had not been an option even during the Soviet period.

Despite the trend towards a calming of ethnic tensions that followed Eduard Shevardnadze's return to Georgia in 1992, the discourse around national minorities was aggravated by the loss of Georgia's territorial integrity following the wars over South Ossetia (1991-92) and Abkhazia (1992-93) and the expulsion of at least a quarter of a million Georgians from the territory of the latter. Frequently the fear was expressed that to grant special privileges to national minorities would further threaten Georgia's territorial integrity. Expanding the political rights of national minorities, it was argued, would risk fuelling secessionist tendencies in those areas in which minorities are concentrated. In particular this fear was directed towards the districts of Akhalkalaki and Ninotsminda (together known as Javakheti), where approximately 95% of the population is Armenian and where a small minority advocated unification with Armenia.

Under the leadership of Eduard Shevardnadze, different trends could be observed within the Georgian political elite: a pro-Russian trend led by the Ministers of Internal Affairs and Defence (Kakha Targamadze and Vardiko Nadibaidze respectively) and a more pro-Western orientation led by the Chairman of Parliament, Zurab Zhvania, favouring greater integration into Euro-Atlantic structures. By the late 1990s, President Shevardnadze appeared to have moved towards the latter trend, and its ascendancy was confirmed by Georgia's accession to the Council of Europe in April 1999. On acceding to the CoE, Georgia pledged to sign and ratify the FCNM within one year (see above).

However, despite this pledge and despite the fact that Georgia signed the FCNM in January 2000, little progress was made towards ratifying it. The delay was exacerbated by the political climate at the time; in late 2001 and early 2002, members of the parliament and government close to Zhvania who had advocated a pro-European course moved into opposition and Shevardnadze more and more relied on a close circle of associates who took a more pro-Russian orientation and had little interest in integrating more fully into European



structures. The period 2002-03 was also marked by increasing exasperation on the part of the international community towards the Georgian government as a result of the latter's failure to combat corruption and its unwillingness to honour international treaties. In February 2003, Mátyás Eörsi, a member of the Parliamentary Assembly of the Council of Europe (PACE) monitoring mission, even suggested that the issue of Georgia's expulsion from the CoE could be raised at a PACE session.<sup>2</sup> Although this threat was not carried out, it was symptomatic of the frustration felt by the CoE towards the Georgian government at the time.

Meanwhile, little progress had been made towards integrating national minorities into civic life. This was in part the result of the dysfunctional nature of the state and its consequent failure to provide any incentives to persons belonging to national minorities to integrate. Although ubiquitous corruption and perennial budgetary shortfalls undermined the provision of public goods and the administration of justice in *all* parts of Georgia throughout the 1990s and early 2000s, especially in the more remote mountainous regions, there was a perception amongst persons belonging to national minorities that they were being deliberately neglected because of their ethnicity. This particularly applied to Armenians in the mountainous Akhalkalaki and Ninotsminda districts, which suffered from a particularly degraded infrastructure and were especially cut off from the rest of the country due to the parlous state of the roads that made journeys to the Georgian capital, Tbilisi, arduous in the extreme. The Armenian inhabitants of these districts would often voice the suspicion that the Georgian government was trying to force them to leave by a policy of 'white genocide', i.e. by deliberately allowing school buildings, healthcare facilities, roads etc. to decline to such an extent that living conditions became unbearable.<sup>3</sup>

Moreover, the poor infrastructure and the lack of effective channels of communication between national minorities and the Georgian majority made it virtually impossible for many persons belonging to national minorities even to receive information about what was going on in their country, let alone participate in public life as citizens. Most persons belonging to national minorities in Georgia are unable to speak the Georgian language; this applies above all to regions such as Javakheti and parts of Kvemo Kartli where most live in monoethnic communities and therefore have little contact with Georgians. The only official language is

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<sup>2</sup> *Civil Georgia: Online Magazine*, 15 February 2003.

<sup>3</sup> See Marina Elbakidze, *The Social, Economic and Political Situation in Javakheti: People's Concerns* (Tbilisi: Caucasian Institute for Peace, Democracy and Development, 2001).

Georgian and virtually all Georgian media is broadcast or published in this language; a lack of knowledge of Georgian therefore means being cut off from the main informational networks in the country. This is indeed what happened to most persons belonging to national minorities in regions such as Javakheti and Kvemo Kartli. Their rights as citizens were limited to voting, and even this form of participation was undermined by persistent instances of electoral fraud, which was particularly prevalent in those very same regions, and by a lack of information on the main parties or candidates.<sup>4</sup> Even though a Law on Citizenship, passed in 1993, granted automatic citizenship to all those residing in the territory of Georgia (the ‘zero principle’), citizenship meant little in reality. After Georgia gained independence in 1991, the above-mentioned ‘informational vacuum’ in which most non-Georgian communities found themselves compounded the problem of state neglect that all rural communities in Georgia suffered and this undermined attempts to integrate persons belonging to national minorities into civic life.

Following the ‘Rose Revolution’ of November 2003, the new leadership under President Mikheil Saakashvili pledged to renew the impetus for further integration into Euro-Atlantic structures. In a symbolic gesture, the European Union flag was hoisted alongside the Georgian flag outside the parliament building. While the new government expressed its desire to ratify the FCNM as soon as possible, it also set as its main priority the full integration of minorities through the teaching of the state language (Georgian). It was feared that the implementation of the FCNM, especially with its inherent guarantees of linguistic rights for persons belonging to national minorities (Article 10), would undermine incentives for persons belonging to national minorities to learn Georgian and integrate.

This leads us to what is probably the most fundamental factor that makes full implementation of the FCNM problematic: language. Many countries of the former Soviet Union face the problem that persons belonging to national minorities are often unable to speak the state language. This is in marked contrast to most central and eastern European countries with large minority populations. In these countries, the last eighty or so years of existence as an independent state with a central bureaucracy and a more or less standardized education system

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<sup>4</sup> Thus, it is said that in presidential elections in Kvemo Kartli, local Azeris even looked for the name of Azerbaijan’s president Heidar Aliyev on the ballot paper. Source: “Georgian Azeris Locked out by Language”. Minelres Archive, <http://lists.delfi.lv/pipermail/minelres/2004-February/003206.html>, reproduced on <http://www.us-english.org/foundation/research/olp/viewResearch.asp?CID=58&TID=4>, by Zaza Baazov, a freelance journalist based in Tbilisi, March 2002.

has meant that the state language is spoken by virtually all the population, even in those regions, such as parts of Transylvania in Romania, where persons belonging to national minorities form a majority.

Even amongst the successor states of the former Soviet Union, Georgia faces particular problems in terms of knowledge of the state language. During the Soviet period, Russian was used as the language of communication between different national groups (even though Georgian remained the official language of the Georgian Soviet Socialist Republic), but was perceived by many from the majority population as the ‘language of the occupier’. Today Georgia is an independent state, but persons belonging to national minorities have largely failed to learn Georgian, both because of the short time frame since independence and because the dysfunctional nature of the state delayed the establishment of an effective and standardized system of education that could have helped propagate the use of Georgian in all parts of the country. This latter factor has meant that knowledge of the state language on the part of national minorities in Georgia is lower even than in other former Soviet republics that have ratified the FCNM, such as the Baltic republics, where greater state capacity has meant that education in the state language is already relatively far advanced.<sup>5</sup> Thus, in Latvia, 59% of Russians, 55% of Belarussians, 54% of Ukrainians, and 65% of Poles claimed to know Latvian in 2000, compared with just 18-20% of persons belonging to national minorities in 1989.<sup>6</sup> In Estonia, according to the 2000 census, 39% of those belonging to national minorities speak Estonian fluently.<sup>7</sup> Amongst Russians, the figure is 38%, compared with just 15% in 1989.<sup>8</sup> In Georgia a somewhat different picture emerges: according to the 2002 census, only 31% of persons

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<sup>5</sup> The other post-Soviet signatories of the FCNM are the Russian Federation, Ukraine, Armenia, Azerbaijan and Moldova. Of these, the proportion of national minorities in Armenia is very significantly lower than in Georgia, making up just 2.1% of the population. In Ukraine, the language issue is not as problematic as the Ukrainian and Russian languages are more or less mutually intelligible. Azerbaijan is in a somewhat similar situation to Georgia in terms of language use, although the minority population much smaller than that of Georgia – 9.4% of the population, according to the 1999 census. Moldova has a larger population of national minorities, and consequently has adopted a different approach to language use; Russian remains a language of inter-ethnic communication alongside Moldovan, Gagauz is a state language within the autonomous region of Gagauzia, and there are plans to introduce Ukrainian and Bulgarian as regional languages. Finally, the overwhelming majority of citizens of the Russian Federation speak Russian.

<sup>6</sup> Ina Druviete, “Language Policy and Protection of the State Language in Latvia (paper presented for the World Congress on Language Policies, Barcelona 16-20 April 2002) at <http://www.lingupax.org/congres/taller/taller3/Druviete.html>.

<sup>7</sup> See 2000 Population Census of Estonia at [http://pub.stat.ee/px-web.2001/I\\_Databas/Population\\_Census/Population\\_Census.asp](http://pub.stat.ee/px-web.2001/I_Databas/Population_Census/Population_Census.asp).

<sup>8</sup> Ibid. and Mart Rannut, “Language Planning in Estonia: Past and Present” (Mercator Working Paper No. 16, 2004) at <http://www.ciemen.org/mercator/index-gb.htm>.

belonging to national minorities in Georgia are able to speak Georgian fluently, compared with 19.5% in 1979.<sup>9</sup> Thus, the increase in knowledge of the state language amongst persons belonging to national minorities has been modest in Georgia, especially since many persons belonging to national minorities left the country following independence and one would expect that those who had little or no command of Georgian would have had the greatest incentive to leave. It is therefore possible that even this modest increase (from 19.5% to 31%) may be more the result of emigration than an indicator of improving knowledge of the state language.

Meanwhile, Russian is no longer as commonly used as a language of communication between different national groups, especially amongst the young, both because of its undesirability for many persons belonging to the majority population and because younger people increasingly prefer to study other languages, such as English. These trends are leading to increasing isolation of minority communities and are hampering their integration into civic life. Such mutual isolation of communities undermines the possibility of establishing a ‘demos’, i.e. a notion of what is meant by ‘we, the citizens’, an essential prerequisite of any stable nation-state.

In Georgia it is imperative to overcome this communication barrier and to establish a ‘demos’ based on shared values as citizens of the state. Western models of multilingual societies, such as Belgium or Switzerland, in which there are two or more official languages, are inappropriate for Georgia; Belgium and Switzerland have had centuries to institutionalize their own particular forms of statehood, while Georgia has had no such luxury. The Georgian state therefore needs to ensure that all citizens can speak a common language, which, given the political unacceptability (and increasing lack of use) of Russian, can only be Georgian.<sup>10</sup>

In order to consolidate Georgian as the state language, it is necessary to expand its use within the public administration and in education even in regions in which persons belonging to national minorities are concentrated. But, in the short term at least, this could lead to de facto discrimination as those who are unable to speak this language find it increasingly difficult to

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<sup>9</sup> Sources: Sakartvelos Statistikis Sakhelmts'ipo Departamenti, *Sakartvelos Mosakhleobis 2002 Ts'lis Pireveli Erovnuli Saqoveltao Aghts'eris Shedegebi*; Tsenral'noie Statistichieskoi Upravlenie Gruzinskoi SSR, *Itogi Bciesoyuznoi Perepisi Nacielieniia 1979 Goda po Gruzinskoi SSR*.

<sup>10</sup> Of course, this does not mean that minority languages cannot have some kind of administrative status at local level. For this author's thoughts on this matter, see Jonathan Wheatley, “The Status of Minority Languages in Georgia and the Relevance of Models from Other European States”, ECMI Working Paper #26 (March 2006). Available at [www.ecmi.de/download/working\\_paper\\_26.pdf](http://www.ecmi.de/download/working_paper_26.pdf).

obtain jobs in the public sector and even to enter higher educational establishments. This risks not only putting Georgia in breach of Article 4 of the FCNM, which insists on ‘full and effective equality’ of persons belonging to national minorities, but also risks provoking a backlash amongst persons belonging to minorities who may perceive their full integration into public life as an ever more hopeless prospect. It is important that both the international community and domestic actors appreciate the almost unique and delicate dilemma in which the Georgian government now finds itself as it attempts to implement the FCNM.

There are other less fundamental, but still important, factors that have fuelled the debate over the FCNM even after the ‘Rose Revolution’. For example, the issue of what constitutes a national minority remains a contentious one. Within the Georgian community there are two distinctive linguistic groups that speak vernacular languages that differ significantly from standard Georgian. These are the Mingrelians (from the historical province of Samegrelo in western Georgia) and the Svans (from the mountainous region of Svaneti in the north-west). Despite the fact that sociological surveys demonstrate that both these groups consider themselves Georgians first and Mingrelians and Svans second<sup>11</sup>, some Georgians feared that ratification of the FCNM may encourage these groups to seek the status of minorities in their own right, thus threatening the cohesion and unity of the Georgian community. This fear must be considered in the context of a debate that began in the end of the nineteenth century, when the tsarist authorities attempted to establish Mingrelian as a liturgical language. Later, in the 1920s and 1930s, Mingrelian was included as a sub-national category in Soviet censuses, and Soviet scholars once again briefly attempted to codify the Mingrelian tongue as a written language. The debate then continued into the post-independence period when intellectuals from the breakaway republic of Abkhazia attempted to promote the use of Mingrelian within Gali district of Abkhazia in order to undermine the unity of the Georgian community.<sup>12</sup> The issue of Mingrelian identity is therefore a highly sensitive one for Georgians, and there is even the perception within Georgian society that Russia is involved in attempting to divide Mingrelians from the rest of the Georgian community.

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<sup>11</sup> See, for example, Theodor Hanf and Ghia Nodia, *Georgia Lurching to Democracy. From agnostic tolerance to pious Jacobinism: Societal change and peoples' reactions* (Baden Baden: Nomos Verlagsgesellschaft, 2000).

<sup>12</sup> See Laurence Broers, “Who are the Mingrelians? Language, Identity and Politics in Western Georgia.” (Paper for the Sixth Annual Convention of the Association for the Study of Nationalities, 2001) at <http://www.bonnetweb.com/caucasus/KV/OECAUC/mingrelians.pdf>.

There is also the question of whether the Meskhetian Turks (Muslim Meskhetians) represent a national minority. Although at the moment the Meskhetian Turk population is tiny, the Georgian government is now planning to comply with Council of Europe's requirements<sup>13</sup> and begin the repatriation of this group, which was deported from the Samtskhe region of Georgia in 1944. While some members of the Meskhetian Turk community express a desire to be considered as a minority, others consider themselves to be 'Muslim Georgians', much like the Muslim inhabitants of the Autonomous Republic of Adjara, who are considered fully Georgian and do not demand minority status.<sup>14</sup>

Another obstacle to the ratification and implementation of the FCNM has been the low level of participation of non-Georgian communities in Georgian political and civic life. This has meant that the only impetus for ratifying the treaty has come from *outside* Georgia (i.e. from the CoE) rather than from domestic actors within the country. As such it was seen as an obligation imposed from outside, rather than a useful instrument for defusing real or potential internal conflicts. Civil society organisations in areas in which ethnic minorities are concentrated have traditionally been weak and minority representatives have therefore been unable to engage in constructive dialogue with the government. The articulation of minority interests is further hindered by the law on political parties that prevents them from being established on a regional or ethnic basis (see below). In parts of eastern and central Europe, specifically Romania, Slovakia, Bulgaria and Macedonia, the presence of political parties representing one or other national minority – at times as part of a coalition with more mainstream parties – has helped nudge the government into pursuing a more conciliatory policy. In Georgia, however, no parties representing national minorities can exist. Moreover, the dominance of the executive branch of power over the legislature in government and the near control over parliament by a 'party of power'<sup>15</sup> representing the authorities has all but eliminated the prospect of coalition government. Thus, the slow progress in recognizing minority rights has been compounded by

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<sup>13</sup> On joining the Council of Europe in April 1999, Georgia committed itself to "adopt, within two years after its accession, a legal framework permitting repatriation and integration, including the right to Georgian nationality, for the Meskhetian population deported by the Soviet regime, to consult the Council of Europe about this legal framework before its adoption, to begin the process of repatriation and integration within three years after its accession and complete the process of repatriation of the Meskhetian population within twelve years after its accession." See <http://portal.coe.ge/index.php?lan=en&id=geoeu&sub=3>.

<sup>14</sup> See, for example, Tariel Putkaradze, *The Identity of Repatriates from Meskheta* (Artanuji, 2005), available at <http://www.nplg.gov.ge/ic/DGL/work/tariel%20putkaradze/mesxetidan%20deportirebulta.htm>.

<sup>15</sup> From 1995 to 2002, this was the *Citizens' Union of Georgia*, of which Shevardnadze was Chairman. After the 'Rose Revolution', it was Saakashvili's *United National Movement*.

the lack of a competitive political environment in which persons belonging to national minorities could play a meaningful role.

Thus, there were certain factors peculiar to the internal political and social situation in Georgia that have delayed implementation of the FCNM and have focused the attention of members of the Georgian political elite and members of society at large on the risks rather than the benefits of ratification. When Parliament finally submitted a Resolution on the Ratification of the Framework Convention for the Protection of National Minorities on 13 October 2005, this Resolution included seven declarations that appeared to be designed to limit the interpretation of the FCNM. These declarations: a) provided a strictly limited definition of what constitutes a national minority, b) aimed to ensure that fulfilment of Article 10 of the FCNM be balanced with a statement on the need to create the conditions for members national minorities to learn Georgian, c) aimed to limit the interpretation of certain articles of the FCNM (namely Articles 11.1<sup>16</sup>, 11.3<sup>17</sup> and 18.1<sup>18</sup>) by asserting that these articles were already covered by existing Georgian legislation as well as bilateral and multilateral agreements, d) sought to exempt the resettlement of victims of ecological or technical catastrophes from the provisions of Article 16<sup>19</sup>, and e) in relation to Article 30 of the Convention<sup>20</sup>, pledged to ensure full and guaranteed observance of the Convention's provisions on the whole territory of the country only after recovering the territorial integrity of the state and the resolution of the conflicts in Abkhazia and former South Ossetia. Although these declarations were not submitted as a part of the instrument of ratification that was deposited with the Council of Europe and therefore do not have force in international law,

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<sup>16</sup> 'The Parties undertake to recognise that every person belonging to a national minority has the right to use his or her surname (patronym) and first names in the minority language and the right to official recognition of them, according to modalities provided for in their legal system'.

<sup>17</sup> 'In areas traditionally inhabited by substantial numbers of persons belonging to a national minority, the Parties shall endeavour, in the framework of their legal system, including, where appropriate, agreements with other States, and taking into account their specific conditions, to display traditional local names, street names and other topographical indications intended for the public also in the minority language when there is a sufficient demand for such indications'.

<sup>18</sup> 'The Parties shall endeavour to conclude, where necessary, bilateral and multilateral agreements with other States, in particular neighbouring States, in order to ensure the protection of persons belonging to the national minorities concerned'.

<sup>19</sup> 'The Parties shall refrain from measures which alter the proportions of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms flowing from the principles enshrined in the present framework Convention'.

<sup>20</sup> 'Any State may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories for whose international relations it is responsible to which this framework Convention shall apply' (Article 30.1).

they are symptomatic of the concerns that remain within government (and popular) circles about the implementation of the FCNM.

## ***2. Implementation of the FCNM: Procedures and Institutional Framework***

The FCNM entered into force in Georgia on 1 April 2006. In June, following consultations with the Council of Europe (CoE), the European Centre for Minority Issues (ECMI) and domestic minority organisations, the Government of Georgia launched a *National Civil Integration Strategy and Action Plan* (NISAP) in order to supervise the implementation and reporting of the FCNM. It was decided that the key institutions for implementing NISAP would be the office of the State Minister on Civil Integration, Zinaida Bestaeva, and the *Council on Civic Integration and Tolerance*, established in August 2005 under the same office. The Council is also chaired by Bestaeva but in practice is directed by its Executive Secretary, Anna Zhvania, who is advisor to the President for Civil Integration Issues. It was set up to bring together ministers, parliamentarians, the Public Broadcaster, the Public Defender and the leaders of four Georgian key NGOs<sup>21</sup> and its goal is to co-ordinate and monitor the implementation of the FCNM and the preparation of the First State Report, due on 1 April 2007. It was also mandated to set up a policy task force consisting of (but not limited to) five working groups on the rule of law, education, the media, business and the economy and public service reform. The task force was not merely designed for the short-term exigencies of preparing the state report, but was to be sustained over the long term for the purpose of monitoring implementation of the FCNM over a period of several years. In the short term, however, the goal of the working groups was to present policy drafts that would feed into the process of elaborating the state report. The state report itself would be drafted by the various ministries represented in the Council on Civic Integration and Tolerance, drawing upon the recommendations of the working groups.

Throughout the process of drafting the state report and throughout the implementation process in general, the *Council of National Minorities* (CNM), established with the assistance of ECMI under the auspices of the Public Defender in December 2005, was to provide

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<sup>21</sup> The *Liberty Institute*, the *Caucasian Institute for Peace, Democracy and Development*, the *Open Society Georgia Foundation* and *Caucasus Research Resource Centres*.



feedback on both the drafts of the report and on policy development in general. The Council unites some eighty representatives of national minorities and its declared aim is to act as a consultative body between representatives of national minorities, governmental bodies and other organisations working in the field of protection and integration of national minorities. It was planned that a special Memorandum of Understanding would be signed between the CNM and the Council on Civic Integration and Tolerance in order to facilitate the implementation and reporting of the FCNM. It was also intended that other minority organisations and NGOs not formally represented in the CNM would also be able to participate in this process to ensure the inclusion of groups such as the Meskhetian Turks, who are not always considered as a national minority (see above). Finally, it was decided that the working groups operating within the policy task force would not only co-ordinate closely with the relevant ministries, but would also be involved in intensive public discussions, talk shows, news programmes and other media events.

The government's approach to implementing the FCNM is underpinned by the need to promote the civic integration of national minorities. Given the fact that the lack of civic integration and the consequent 'ghettoisation' of nationalities has proved to be one of the biggest obstacles to the establishment of a society based on civic values rather than ethnic particularism, this approach is quite logical. The decision to establish task forces as 'think tanks' that will continue to operate over a long time frame would appear to demonstrate that the government is not merely interested in short-term goals, such as the preparation of the first state report, but instead sees the implementation of the FCNM as a long-term, ongoing process. This is also encouraging. However, when focusing on integration, care must be taken to appreciate the specific circumstances faced not only by each national minority, but also by each community within each national minority (for example, the interests of persons belonging to a particular national minority in Tbilisi may be quite different from those of members of the same minority in regions in which they live compactly). Generally speaking, the approach towards implementing the FCNM seems to have many positive aspects, although it is as yet too early to judge whether it will be successful.

One institution that has become increasingly active on the issue of protecting persons belonging to national minorities is the Public Defender's office. Following the creation of the CNM, the six-monthly report prepared by the Public Defender's office on the human rights situation in Georgia is to include issues that specifically affect persons belonging to national

minorities. From July 2006, the CNM began consultations with all key government agencies involved in issues concerning national minorities and sought to obtain concrete data from these agencies on specific matters of relevance. These consultations will also feed into the process of implementing the FCNM. The agencies involved included the Ministry of Internal Affairs, the Prosecutor's Office, the Department for the Execution of Punishment within the Ministry of Justice, Tbilisi City Hall, the Central Election Commission, the Ministry of Defence, the Ministry of Education and the Supreme Court. The Public Defender's Office, or more specifically the Tolerance Centre that unites the CNM and the Council of Religions (also within the Public Defender's Office, established in June 2005), also investigates concrete cases of discrimination and, on occasions, has been known to intervene.<sup>22</sup> By intervening in cases of suspected discrimination, the Public Defender's Office is beginning to play an active role in the implementation of Article 4 of the FCNM.

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<sup>22</sup> For example, in April 2006 the Tolerance Centre intervened following the dispersal of a demonstration in the village of Damia-Giaurarkhi in Marneuli *rayon* by local Azeris over what they perceived as unfair land privatization. They also investigated a violent scuffle between adherents of the Georgian and Armenian churches at a church in August 2005 in the village of Samtsari in Akhalkalaki district.

### III. AREAS OF RELEVANCE

#### *1. Definition of Minorities*

According to the Resolution of the Parliament of Georgia On the Ratification of the Framework Convention for the Protection of National Minorities, adopted in October 2005, a national minority is defined as a group, the members of which a) are Georgian citizens; b) differ from the dominant part of the population in terms of language, culture and ethnic identity; c) have been living on the territory of Georgia for a long time; and d) live in compact settlements on the Georgian territory. The Parliamentary Committee for Human Rights and Civic Integration is also drafting a Concept on the Protection and Integration of Persons Belonging to National Minorities, which (if ratified by Parliament) should help Georgia meet its CoE obligation to adopt a law on minorities (see above), and the latest version of the draft (dated April 2006) includes a definition of national minorities. This definition determines that national minorities must not form a part of the autochthonous population, must not be the titular nation of an autonomous region within Georgia, must wish to preserve and develop their identity, and must not be too small numerically. It must be emphasised that this draft is part of an ongoing process and should not be considered as definitive or final.

According to the second of these two definitions, the Abkhaz cannot count as a national minority by virtue of the fact that they are the titular nationality of the Autonomous Republic of Abkhazia. Moreover, the status of the Ossetian minority is ambiguous, given the March 2005 *Initiative of the Georgian Government with Respect to the Peaceful Resolution of the Conflict with South Ossetia*, which – if implemented – would grant South Ossetia autonomous status as a territorial entity in Georgia.<sup>23</sup> The status of the Meskhetian Turks would also be ambiguous according to the draft Concept in the event of their return to Georgia and the issue of whether or not they should constitute a national minority is likely to provoke much debate.<sup>24</sup> According to official Tbilisi they are ‘Muslim Georgians’; however, groups representing Meskhetians differ as to whether they wish to be identified as Georgians, with

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<sup>23</sup> Initiative of the Georgian Government with Respect to the Peaceful Resolution of the Conflict with South Ossetia, available at *Civil Georgia: Online Magazine*, 24 March 2005.

<sup>24</sup> According to the terms of accession to the Council of Europe, the Georgian government is obliged to repatriate the Meskhetian Turks, who were deported from the present-day Samtskhe-Javakheti region of Georgia in 1944.

some indicating a wish to be considered as minorities.<sup>25</sup> Another open question is how large a group has to be in order to be considered a national minority. Although the latest draft of the Concept does not define a 'minimum size', it is unlikely that the very smallest minorities, such as Belorussians, Avars and Udi would be considered as such. In addition, the Resolution would appear to exclude smaller minorities that are not compactly settled on any given geographical region, and if strictly interpreted would even exclude communities from larger minorities (such as Azeris and Armenians) that are not compactly settled in any one region. Finally, the Svans and Mingrelians would not constitute a national minority, given the fact that they are autochthonous and, according to most surveys, consider themselves to be Georgians and have no wish to be considered as national minorities.

The interpretation of what constitutes a minority as defined by the Resolution and the latest draft of the Concept would appear to be unduly limited. First, the condition provided by the Resolution that national minorities must, in order to be granted the status of national minorities, live in compact settlements on Georgian territory is vague as the required concentration of national minorities in percentage terms is not specified. Furthermore, although it is not incompatible with the FCNM to have different levels of protection for different minority communities according to their demographic circumstances, for example by giving special rights to minorities living in compact settlements, the outright exclusion of minorities by virtue of their patterns of settlement would not be acceptable within the FCNM. Secondly, the requirement that minority communities must have lived on Georgian territory 'for a long time' is equally vague. Of particular relevance here is an opinion issued by the Venice Commission in 2005 on Romania's draft Status Law on National Minorities, in which the Commission characterised arbitrary time limits for residency as problematic.<sup>26</sup> Thirdly, the Advisory Committee of the CoE has, on previous occasions, recommended that the provisions of the FCNM be applied to non-citizens as well as citizens; of relevance here is the Venice

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<sup>25</sup> See Oskari Pentikainen and Tom Trier, 'Between Integration and Resettlement: The Meskhetian Turks' (ECMI Working Paper No.21, September 2004) at [http://www.ecmi.de/download/working\\_paper\\_21b.pdf](http://www.ecmi.de/download/working_paper_21b.pdf); The Caucasian Institute for Peace, Democracy and Development, *Ethnic-Confessional Groups and Challenges to Civic Integration in Georgia: Azeri, Javakheti Armenian and Muslim Meskhetian Communities* (Tbilisi: CIPDD, 2002).

<sup>26</sup> Venice Commission Opinion 345/2005 Law on the Status of National Minorities in Romania.

Commission's Opinion on Lithuania's Draft Law on Amendments to the Law on National Minorities (2003).<sup>27</sup>

Although the inclusion of a definition of national minorities is not a requirement for adopting the FCNM, the CoE recommends that the First State Report should include details of the persons to whom the provisions of the FCNM is being applied and 'the numbers and places of settlement of the persons concerned'<sup>28</sup> within the information provided on the implementation of Article 3. This would suggest that some kind of list of national minorities should be provided and many signatory countries choose to include a definition here. The Government of Georgia has likewise expressed its intention to include such a definition and the formulations provided in the parliamentary Resolution and the latest draft of the Concept represent a first step in this direction.

The FCNM itself provides a rather flexible conception of what a national minority is, suggesting as it does (in Article 3) that national minorities are defined by a combination of subjective and objective factors. On the one hand, the statement that 'every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice' (Article 3.1) seems to suggest that identification with a national minority is voluntary. At the same time, according to Explanatory Report to the Framework Convention for the Protection of National Minorities, this article 'does not imply the right for an individual to choose arbitrarily to belong to any national minority. The individual's subjective choice is inseparably linked to objective criteria relevant to the person's identity.'<sup>29</sup> However, the Georgian Parliament's Resolution, by including four clauses that appear to limit the criteria for membership of national minorities, appears to tilt the balance rather too far in favour of ascribed group membership over voluntary membership.

As mentioned above, it must be pointed out here that Georgia's instrument of ratification contains no such declarations or reservations and therefore Parliament's Resolution has no force in international law. Since Article 6.2 of the Georgian Constitution states that international treaties take precedence over domestic normative acts unless they

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<sup>27</sup> ECDL, Opinion on the Draft Law on Amendments to the Law on National Minorities in Lithuania, 237/2003, CDL-AD (2003) 12, 2003.

<sup>28</sup> Council of Europe, *Framework Convention for the Protection of National Minorities: Selected Texts*, 3<sup>rd</sup> ed. (Strasbourg: Council of Europe Publishing, 2005), 51.

<sup>29</sup> Council of Europe, "Explanatory Report to the Framework Convention for the Protection of National Minorities" (ETS No. 157) at <http://conventions.coe.int/treaty/en/Reports/Html/157.htm>.

contradict the Constitution itself, the declarations contained in the Resolution have no force in domestic law either. The Resolution and the latest draft of the Concept therefore merely serve as indications of how national minorities are conceptualised and reflect certain concerns on the part of the Parliament of Georgia on the implications of ratifying the FCNM.

As well as the definition of what constitutes a national minority, also of relevance is how individuals are classified in terms of national identity. During the Soviet period, one's national identity was entered in passports and official identity cards and represented a bureaucratic category of identification. Although the clause identifying individuals by nationality was removed from all identity documents in 1997<sup>30</sup>, the removal of the clause was controversial and provoked the resistance of Georgian nationalist politicians such as Guram Sharadze, who argued that Georgians as an ethnic group would somehow become 'diluted' as members of other groups adopted Georgian identity and the national culture would consequently be lost.

At present, the main instrument for determining how many individuals belong to each national group is the National Census, last taken in 2002. However, following the publication of the results of the census, doubts were raised about how accurate it was and whether the total population had been artificially inflated in order to obtain more budgetary funding and foreign assistance for local bureaucratic bodies.<sup>31</sup> While some argued that the total population had been artificially inflated, some representatives of national minorities claimed that their numbers had actually been underestimated by the census. According to its own survey, the non-governmental organisation 'Multinational Georgia' claims that in 2003 national minorities made up 23-24% of the Georgian population, not 16%, as stated in the results of the census. Moreover, Multinational Georgia's survey also appeared to show that the population of Armenians in Tbilisi was around 120,000, instead of 82,586 as measured by the census. Another shortcoming of the census is that, like the previous Soviet-era censuses that came before it, it does not identify Roms as a separate group. Although there is a significant population of Roms in Georgia, especially in Tbilisi, few, if any, of their number are officially registered.

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<sup>30</sup> Federation Internationale des Ligues des Droits de l'Homme, *International Fact-Finding Mission: Ethnic Minorities in Georgia* (Report no.412/2, April 2005), at <http://www.fidh.org/IMG/pdf/ge412ang.pdf>.

<sup>31</sup> *Civil Georgia Online Magazine*, 4 February 2002.

Whatever system is used to classify individuals in terms of their ethnic identity, it is important to consider Article 3 of the FCNM, which stresses the voluntary nature of membership of national minorities. Practices such as inscribing ethnic membership in an individual's passport or birth certificate clearly contradict this voluntary aspect of membership of national minorities.

## ***2. Minorities in Public Administration***

Of primary relevance for the recruitment of persons belonging to national minorities to the public administration is Article 15 of the FCNM, which states that 'the Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.' According to the Explanatory Report to the Framework Convention for the Protection of National Minorities, this article implies 'effective participation of persons belonging to national minorities in the decision-making processes and elected bodies both at national and local levels.'<sup>32</sup> This means that Article 15 implies that persons belonging to national minorities should be represented adequately both in the national parliament and in local councils.

Also of relevance is the general condition stated in Article 4 of the FCNM that prevents discrimination against persons belonging to national minorities. Article 4 states that:

1. The Parties undertake to guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law. In this respect, any discrimination based on belonging to a national minority shall be prohibited
2. The Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities.
3. The measures adopted in accordance with paragraph 2 shall not be considered to be an act of discrimination.

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<sup>32</sup> Council of Europe, 'Explanatory Report to the Framework Convention for the Protection of National Minorities'.

The emphasis in Article 4 on ‘full and effective equality between persons belonging to a national minority and those belonging to the majority’ clearly goes beyond the basic legal premise that all individuals are equal before the law and implies that persons belonging to national minorities must enjoy *de facto* equality with members of the majority. Any measures that inadvertently exclude persons belonging to national minorities from positions in the public administration must therefore be seen as contrary to the spirit of Article 4. In Georgia this applies above all to measures that require public servants to speak the state language (Georgian); as many persons belonging to national minorities – particularly those in compact settlements – are unable to speak the state language, they are likely to be excluded from state posts unless active measures are taken by the state to prevent such *de facto* discrimination.

The other article that may be of relevance to the relationship between national minorities and public administration is Article 10, specifically Articles 10.1 and 10.2, which deal with the accessibility of the administrative authorities to persons belonging to national minorities. These articles state:

1. The Parties undertake to recognise that every person belonging to a national minority has the right to use freely and without interference his or her minority language, in private and in public, orally and in writing.
2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities.

Clearly if the administrative authorities do not use the minority language in areas in which knowledge of the state language is low, the result will be a communications barrier between the authorities and the citizens they are supposed to represent. It will also mean that persons belonging to national minorities who are unable to speak the state language will be poorly informed of the decision-making process in their country.

Levels of recruitment of persons belonging to national minorities to administrative organs in Georgia vary from minority to minority and from place to place. Generally speaking, however, persons belonging to national minorities are under-represented both at national and at local level. At the time of writing only one out of seventeen ministers and state ministers, Zinaida Bestaeva (an ethnic Ossetian) was a persons belonging to a national minority.



Moreover, in the parliament that was sworn in in 2004, there were just nine parliamentarians who belonged to national minorities (five Armenians, three Azeris and an Ossetian), compared with the fourteen that sat in the 1999–2004 Parliament. Moreover, few persons belonging to national minorities hold key positions at *rayon* (district) level either; at the time of writing there were only two *rayons* in Georgia where the state administrator (*gamgebeli* or acting *gamgebeli*) belonged to national minorities. These two *rayons* are Akhalkalaki and Ninotsminda rayons (known collectively as Javakheti), where both *gamgebelis* are Armenians. In this respect, a divergence can be observed between Javakheti, where a large majority of the population is Armenian, and Marneuli, Bolnisi and Dmanisi rayons in Kvemo Kartli, where a majority of the population is Azeri. In Javakheti the top positions at *rayon* level – *gamgebeli*, chief of police, head of the tax inspectorate and prosecutor – are held by Armenians, and most of the staff of the *rayon* administration (*gamgeoba*) are also Armenian. In Kvemo Kartli, on the other hand, all these top posts are held by Georgians. The highest position to which an ethnic Azeri can aspire is that of first deputy *gamgebeli*. In addition, very few city mayors belong to national minorities; only two directly elected city mayors are non-Georgians (those of Akhalkalaki and Marneuli).

One of the reasons behind the under-representation of persons belonging to national minorities in Parliament is Article 6 of the Law on Political Associations of Citizens (1197) that states that ‘no party can be established according to the regional or territorial principle’ and Article 11 of the same law that prohibits ‘restriction of party membership according to race, skin colour, language, sex, religion, national, ethnic and social belonging.’ This law must be seen against the backdrop of the conflicts of the early 1990s and the consequent loss of Georgia’s territorial integrity. However, Georgia is almost unique amongst countries to have signed the FCNM to have such strict provisions on its statute books. The law has already been used to refuse registration to a political association called *Virkh* which aimed to represent the mainly Armenian population of Javakheti. In other countries of eastern and central Europe, most notably Bulgaria, Romania, Slovakia and Macedonia, minority parties have served the dual function of increasing minority representation in parliament and of lobbying the interests of persons belonging to national minorities to their governments.

There is even a risk that the under-representation of minorities in parliament may become even more severe after the next parliamentary elections, scheduled for 2008. According to the Unified Election Code of Georgia (as amended in August 2003) those

elected to the Georgian Parliament must ‘know the Georgian language’ (Article 92.1), a provision that was due to come into force on 1 January 2005. This would cause problems for those elected in single-mandate constituencies in those regions in which national minorities are concentrated, as few non-Georgian candidates here know the state language.

As to the low levels of representation of persons belonging to national minorities in bodies of state administration in general, this is mainly the result of their lack of competence in the state language, especially in regions in which they are territorially concentrated. The language used in administration in Georgia is regulated by Articles 14 and 73 of the Administrative Code (1999, entered into force in 2000). Article 14 states that ‘[t]he official language of administrative proceeding shall be Georgian. The additional official language of administrative proceeding in Abkhazia shall be Abkhazian.’ Here administrative proceedings are defined as ‘activities performed by an administrative agency to prepare, issue, or enforce an administrative decree or solve an administrative complaint’ (Article 2.1). According to Article 73.3, ‘[a]n administrative proceeding shall be conducted in Georgian’ except in Abkhazia where Abkhazian can be used as well, while Article 73.4 states that ‘[i]f the application/statement or any other document presented by an interested party is not in the state language, the party shall present a notarized translation of the document within the term defined by an administrative agency.’ The use of Georgian in administration is also regulated by the Law on Public Service (1997). Article 12 of this Law states that public service in Georgia is exercised using the Georgian language, except in Abkhazia, where the Abkhazian language can also be used, and Article 98.1 states that lack of knowledge of the state language can be grounds for dismissal. The Law also states that those applying for public posts (Article 15) and for posts in local self-government (Article 16) must have command of the state language (i.e. Georgian). Article 16 is backed up by the new Organic Law of Georgia on Local Self-Government (2005), which states that ‘the working language and the office work of the local self-government bodies is implemented in the state language of Georgia’ (Article 10). Self-government bodies here refer to elected councils, to their executive branches and to their control bodies.

It must be noted, however, that hitherto these laws have either been ignored or have been applied selectively. Within the administrative organs of Akhalkalaki and Ninotsminda districts, in particular, Armenian and Russian are widely used despite the provisions of the Administrative Code. Neither the *gamgebeli* or Akhalkalaki nor that of Ninotsminda, nor most

staff members in the *gamgeobas* of the two *rayons* have command of the state language. Indeed, in Javakheti at the time of writing the *gamgeobas* in Akhalkalaki and Ninotsminda and their supervised agencies were exempt from language qualification exams, which is a violation of the Law on Public Service. Hitherto, an informal arrangement has prevailed, whereby a local Armenian elite consisting of wealthy and powerful Armenians has been allowed to govern the region in return for their support for the centre. In Kvemo Kartli, on the other hand, most local power brokers are Georgians with full command of the state language.

From 2005, there were signs that the government was preparing to enforce the above-mentioned laws on language use in the public administration. During 2005, there were isolated incidents in Javakheti of existing (Armenian) staff being replaced by Georgians in the Notary's Office and in the local office of the Ministry of Justice on the grounds that they were unable to speak the state language. Whilst this was part of a general tendency to replace old (and often poorly-qualified) staff by new better-qualified personnel with knowledge of Georgian, it raised fears amongst the local population that within a relatively short space of time no persons belonging to national minorities would be employed in local state structures. Increasingly, language tests and appraisals for civil servants were required to gain positions in various professions. Although these tests and appraisals had already been introduced during the Shevardnadze period, they had not been enforced. Language appraisals applied to staff at education resource centres under the Ministry of Education, staff at the State Department for Statistics and to staff at state support centres for socially vulnerable families under the Ministry of Labour, Health and Social Affairs. At Ninotsminda support centre, six members of a staff of eight were ethnic Georgians, appointed as a result of language requirements.<sup>33</sup>

There are even greater problems in recruiting persons belonging to smaller minorities into state structures. Representation of Kurds (Yezids), Greeks and Ossetians in state structures are particularly low. Although there remain a handful of Kurds in law enforcement structures as a leftover from the communist period when Kurds were placed in these positions to police their own community, these are now very few and Kurds are virtually unrepresented in all other state structures. There are also very few Greeks in state structures, except for a few members of staff in Tsalka district *gamgeoba* and a couple of Greek policemen, also in Tsalka. As for the Ossetian community, the one minister and one members of parliament are virtually the only individuals to occupy senior positions in state structures.

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<sup>33</sup> Source: E-mail correspondence with a researcher from International Crisis Group, July 2006.

The difficulties in recruiting public officials and electing representatives from national minorities return us to the dilemma outlined earlier in the paper; that of balancing the need for all persons belonging to national minorities to speak the state language and thereby end their informational isolation with the need to introduce measure to provide them with ‘full and effective equality’ and protect them from de facto discrimination. In order to achieve this balance, special measures are required from the Georgian government.

As of 2005, the government did indeed begin to take active steps to ensure the recruitment of persons belonging to national minorities into bodies of public administration. With this end in mind, in December 2005 it established a new school of public administration, named after the late prime minister Zurab Zhvania, in Georgia’s second city of Kutaisi. Each student of the school is required to complete a three-month course on public administration and all those without full command of the state language are also required to take a three-month course in Georgian to begin with. For the first year, a hundred students were accepted onto the course after applying to the Ministry of Education and approximately seventy-five of these began lessons on 16 January 2006. Of these around twenty-five were Georgians from mountainous regions of the country, while the rest were persons belonging to national minorities.

Most observers agree that during the first year the school functioned quite successfully, although it was too early to tell whether graduates from the school would obtain the public posts for which they strived. Some doubts were raised about whether a three-month course was sufficient for mastering Georgian, given the low starting-point as regards knowledge of the Georgian language among national minorities who have hitherto had little contact with native Georgian speakers.

Generally speaking, the strict application of the existing legislative framework regarding language use in the public administration, in bodies of local self-government and in Parliament risks leading to discrimination against persons belonging to national minorities who are concentrated in areas where few Georgian speakers live. This would place Georgia in breach of Articles 4 and 15 of the FCNM. Although the government has made a very positive first step in averting this risk by establishing the Zurab Zhvania School of Public Administration, further measures still need to be taken. Given the situation on the ground, there is an argument for delaying the strict application of laws such as the Administrative Code and the Law on Public Service for several years until the Zurab Zhvania School and

other educational establishments have had time to train a sufficient number of well-qualified and bilingual civil servants from national minorities. It may also be expedient to delay the application of Article 92.1 of the Unified Election Code for at least one more four-year parliamentary term. Furthermore, in order to increase minority representation in Parliament and to enhance dialogue between minority communities and the Georgian state, one possibility is to repeal Article 6 and 11 of the Law on Political Associations of Citizens, which prohibit the establishment of political parties on a regional or ethnic basis.<sup>34</sup>

Turning now to the accessibility of bodies of public administration to persons belonging to national minorities in terms of language, only Article 10.2 of the FCNM is of relevance here. Article 10.1 is already basically satisfied and is anyway not relevant to public administration. In Georgia, a member of a national minority faces no restrictions in using ‘freely and without interference his or her minority language, in private and in public, orally and in writing’ (Article 10.1), since as the Explanatory Report to the Framework Convention for the Protection of National Minorities makes clear: “‘In public’ means, for instance, in a public place, outside, or in the presence of other persons but is not concerned in any circumstances with relations with public authorities, the subject of paragraph 2 of this article.”<sup>35</sup> Indeed, the Georgian Constitution guarantees the rights enshrined in Article 10.1, stating as it does that “citizens of Georgia shall be equal in social, economic, cultural and political life irrespective of their national, ethnic, religious or linguistic belonging. In accordance with universally recognised principles and rules of international law, they shall have the right to develop freely, without any discrimination and interference, their culture, to use their mother tongue in private and in public.” (Article 38.1)

Article 10.2, however, goes further than existing legislation. In particular, it suggests that provisions made for ensuring ‘the conditions which would make it possible to use the minority language in relations between [persons belonging to national minorities] and the administrative authorities’ be applied in ‘areas inhabited by persons belonging to national minorities traditionally or in substantial numbers’. This implies that certain special measures may need to be taken in regions where national minorities are concentrated, if persons

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<sup>34</sup> Such a measure would need to be combined with a reduction of the 7% threshold that parties and blocs have to overcome in order to enter parliament by the party lists. The Council of Europe has repeatedly exhorted Georgia to lower this barrier.

<sup>35</sup> Council of Europe, ‘Explanatory Report to the Framework Convention for the Protection of National Minorities’.

belonging to national minorities so request and if there is a ‘real need’. However, Article 10.2 is flexible to the extent that it allows the parties to interpret what is meant by ‘substantial numbers’ and, according to the Explanatory Report ‘the wording “as far as possible” indicates that various factors, in particular the financial resources of the Party concerned, may be taken into consideration’. The Explanatory Report also points out that ‘[t]he term “inhabited ... traditionally” does not refer to historical minorities, but only to those still living in the same geographical area’.<sup>36</sup>

Even within this rather flexible interpretation of Article 10.2, the Georgian legal framework that defines language use within bodies of state administration, including in their dealings with the public, probably needs some modification before it is compatible with this article. There is therefore some argument for introducing special legislation to allow units of local self-government in regions in which persons belonging to national minorities are concentrated to disseminate information, both oral and written, in minority languages. This would apply above all to the Azeri, Armenian and Ossetian languages, as it is only the Azeri, Armenian and Ossetian populations that form majorities at the level of the self-governing unit (i.e. the district level or the self-governing city outside Abkhazia).

### ***3. Minorities and Education***

Education reform is a key element in the Georgian government’s drive to create a modern meritocratic society and an internationally competitive workforce. Not surprisingly, the reform has major implications for persons belonging to national minorities, especially in terms of whether they are able to obtain a comprehensive education in the language of the state. This issue is often highly controversial.

Of particular relevance to education is Article 12, which states:

1. The Parties shall, where appropriate, take measures in the fields of education and research to foster knowledge of the culture, history, language and religion of their national minorities and of the majority.
2. In this context the Parties shall *inter alia* provide adequate opportunities for teacher training and access to textbooks, and facilitate contacts among students and teachers of different communities.

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<sup>36</sup> Ibid..

3. The Parties undertake to promote equal opportunities for access to education at all levels for persons belonging to national minorities.

Furthermore, Article 13.1 states:

Within the framework of their education systems, the Parties shall recognise that persons belonging to a national minority have the right to set up and to manage their own private educational and training establishments.

Also relevant is Article 14:

1. The Parties undertake to recognise that every person belonging to a national minority has the right to learn his or her minority language.
2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there is sufficient demand, the Parties shall endeavour to ensure, as far as possible and within the framework of their education systems, that persons belonging to those minorities have adequate opportunities for being taught the minority language or for receiving instruction in this language.
3. Paragraph 2 of this article shall be implemented without prejudice to the learning of the official language or the teaching in this language.

Finally, the requirement enshrined in Article 4 for ‘full and effective equality’ is also relevant because, once again, the enforcement of language requirements within the sphere of education risks leading to de facto discrimination against persons belonging to national minorities in terms of educational opportunities.

One legacy of Soviet rule is that the provision of educational facilities for the larger national minorities has not been a problem. As a result of this legacy, there still exist on the territory of Georgia both schools in which the main language of instruction is Russian and schools that specifically cater for pupils from larger national minorities. Thus, both in Tbilisi and in areas in which persons belonging to the respective national minorities are concentrated, there are a large number of Armenian, Azeri and Russian schools. In 2002, it was estimated that 38,000 pupils were registered in Russian-speaking schools or Russian-speaking departments of schools, another 38,000 were registered in Azeri-speaking schools or departments, 26,000 in

Armenian schools or departments and 200 in Ossetian departments.<sup>37</sup> In Tbilisi many pupils from national minorities attend Russian schools, even though they do not belong to the Russian minority. As regards higher education, there are several state-certified institutes of higher education that include departments in which the main language of instruction is Russian; of approximately 16,000 university places available in 2005, around 800 were in Russian language departments, which included departments in Tbilisi State University and Tbilisi State Medical University. Moreover the Saba Orbeliani State Pedagogical University, which trains student teachers, has a Chair in Azeri language and literature and a Chair in Armenian language and literature, mainly for the benefit of those planning to teach in Azeri and Armenian schools.<sup>38</sup> Taken together, schools and universities in Georgia adequately ‘foster knowledge of the culture, history, language and religion of their national minorities’. In addition to these state-certified educational establishments, in Tbilisi there also exist private Sunday schools that are run by representatives of national minorities and that teach the language and culture of the respective minority.

Smaller minorities such as the Kurds, Greeks, and Assyrians, however, do not have their own schools, nor even departments within schools in which their languages are taught. During the Soviet period, there were several Ossetian schools, not only in South Ossetia, but also in other parts of Georgia where Ossetians lived. Most of these were closed down during the Gamsakhurdia period and, according to Tengiz Gagloev of the *Association of Ossetians of Georgia*, the few Ossetian departments that remain today (for example in Akhmeta district) do not actually teach the Ossetian language.<sup>39</sup> During the Soviet period, there were also classes in schools where pupils could learn Kurdish but these have now been closed down. Now, the only instruction in the languages of the smaller minorities are provided by independent minority associations that provide classes to children at weekends; the *National Congress of Kurds/Yezids of Georgia* and the *Federation of Greek Communities* carry out such activities through their own funds and with the support of private donors. Generally speaking, the smaller minorities have few opportunities to study and thereby preserve their native languages.

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<sup>37</sup> Federation Internationale des Ligues des Droits de l’Homme, *International Fact-Finding Mission: Ethnic Minorities in Georgia*.

<sup>38</sup> Federation Internationale des Ligues des Droits de l’Homme, *International Fact-Finding Mission: Ethnic Minorities in Georgia*.

<sup>39</sup> Source: Interview with minority representatives, 1 August 2006.



The main drawback of the system of minority and Russian schools is that the diversity of education which they provided as well as the incapacity of the new Georgian state to provide an effective and standardized education system did little to foster the integration of persons belonging to national minorities. Indeed, the education system of the 1990s and early 2000s encouraged members of the Armenian and Azeri minorities to integrate more fully into the educational and cultural life of their kin states (Armenia and Azerbaijan), rather than into Georgian intellectual life. Due to the budgetary crisis and general government neglect of the education infrastructure, Armenian and Azeri schools in Javakheti and Kvemo Kartli were forced to rely on text books from Yerevan and Baku and those who went on to higher education usually went to university in Yerevan, Baku or Moscow, which further distanced them from the Georgian intellectual sphere and deprived the Georgian state of well-educated professionals from national minorities. The new Georgian government that took power after the 'Rose Revolution' hoped to reverse this trend through the establishment of a standardized national curriculum that would be followed by all schools in Georgia, including those in which persons belonging to national minorities are educated.

The establishment of a new national curriculum was part of a far-reaching programme of reforms to the education system. The relevant laws that introduced these reforms were the 2005 Law on General Education and the 2004 Law on Higher Education. Both laws explicitly prohibited discrimination in the Georgian education system; Article 13 of the Law on General Education insists on 'neutrality and a non-discriminatory attitude', prohibits use of 'the study process in a public school for the purposes of religious indoctrination, proselytism and forced assimilation' and stipulates that schools must 'provide [the] individual and collective right of persons belonging to minorities to use their native language, [and] preserve and express their cultural values'. Similarly the Law on Higher Education insists on 'equal treatment for all, regardless of one's ethnic or social origin, gender, political or religious beliefs' (Article 16). However, despite the emphasis on equality and non-discrimination, both these laws have been criticised for allowing unintentional discrimination against national minorities.

The new national curriculum that was introduced by the Law on General Education has proved controversial in terms of provision of education in the state language to non-Georgians. The new law requires all schools in Georgia to teach Georgian language and literature, the history and geography of Georgia as well as 'other social sciences' in Georgian by the academic year 2010-2011. This does not signal the abolition of minority schools as

schools will still be able to set their own curriculum that include subjects beyond the national curriculum providing the core subjects of the national curriculum are included. These may, of course, include the teaching of the minority language, history and culture. However, the new requirements have provoked unease amongst some representatives of national minorities for two principal reasons. First, there is a fear that this legislation may result in de facto discrimination against minorities on ethnic grounds because of the short time frame provided for completing the transition from teaching the core subjects in the minority language (or Russian) to teaching them in Georgian. It is feared that within this time, pupils will still have insufficient mastery of the language to follow the lessons and that this may result in schoolchildren from national minorities receiving a sub-standard education compared to their Georgian counterparts. If this were to be the result, the education system would fail to conform to Article 4 and Article 12.3 of the FCNM.

The second source of unease for some persons belonging to national minorities is that by making it compulsory to learn the history of Georgia in the Georgian language, the new system may somehow undermine the identity of national minorities. Some fear that by learning history in Georgian from a Georgian viewpoint, their children will somehow be inculcated into Georgian culture and will therefore lose their own national identity. Although from an outside point of view this fear may seem irrational, language and history have played a major role in defining national identities in the former Soviet Union. Heated debates amongst historians over whether national minorities are indigenous have soured the relationship between majorities and minorities across the Soviet Union – and in the Caucasus region in particular – and have on occasions been a mobilizing factor in civil conflict. During the Gamsakhurdia period, the official Soviet historiography, which already expressed a strong national bias, was elaborated further in an attempt to show that non-Georgians were not indigenous and therefore somehow ‘lesser citizens’.<sup>40</sup> Here language also assumed a central role in the debate as rival historical narratives continually sought to show how various historical manuscripts written in one language or another were proof of the indigeneity of one

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<sup>40</sup> The most blatant example of this tendency was the work of the Georgian historian Mariam Lortkipanidze. Lortkipanidze argues that Georgians, not Abkhazians, form the autochthonous population of Abkhazia. To support her argument, she claims that the Apsilae and Abasgoi, mentioned by classical writers of the first and second centuries AD as inhabiting the area that today is Abkhazia, were not the ancestors of the modern Abkhaz but were instead Kartvelians (Georgians). Mariam Lortkipanidze, *Abkhazy i Abkhaziia* (Tbilisi: Ganatleba, 1990).

group or another.<sup>41</sup> Thus, language and history are highly sensitive topics in Georgia, especially within the field of education.

At the time of writing plans were already underway within the Ministry of Education to produce textbooks on Georgian history in the languages of the larger national minorities. However, serious risks could be involved here if care is not taken to ensure that the new history text books do not merely expound the historical narrative of Georgian nationalism and refute the rival narratives of the national minorities. It is clear that this undertaking must be tackled with the utmost sensitivity.

Another part of the education reforms that have also sparked controversy is in the sphere of higher education. Article 4 of the new Law of Georgia on Higher Education states that '[t]he language of instruction at a higher education institution is Georgian, in Abkhazia – also Abkhazian', although it also states that '[i]nstruction in other languages, except for individual study courses, is permitted provided that this is envisaged by international agreement or is agreed with the Ministry of Education and Science of Georgia.' More controversial, however, is Article 89 of the Law, which established national entrance examinations for all state-accredited higher education institutions and identified four subjects in which these examinations would be held in order to enter university in the academic year 2005-2006, i.e. the first year in which university entrants were required to pass the examinations. These subjects were Georgian Language and Literature, General Abilities, Foreign Languages (English, German, French or Russian) and Mathematics (optional). In 2006-2007 other (optional) subjects were added to this list. Members of national minorities were given the opportunity to sit all examinations except Georgian Language and Literature in Russian and at the time of writing the Ministry of Education was also planning to provide the opportunity for pupils to sit the General Abilities Examination in Armenian and Azeri.

Of particular interest to us here is the examination in Georgian Language and Literature. In 2005, there were two alternative examinations in this subject: one more difficult examination intended for ethnic Georgians and one for those who had studied at a non-Georgian school and planned to enrol at one of the above-mentioned Russian language departments at state-accredited higher education establishments. Most persons belonging to

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<sup>41</sup> Thus, according to Georgian historians such as Lortkipanidze, however, the ancient kingdom of Abkhazeti was Georgian, not Abkhazian, because Georgian was used as the written language by the court of the Abkhazian kings and as the liturgical language by the church.

national minorities opted for the easier examination, although those seeking to gain entrance to those universities without a Russian language department were forced to take the more difficult one. Above all this applied to school leavers from Javakheti who sought to enter the Akhalakalaki branch of Tbilisi State University; as it did not have a Russian language department applicants to the branch had to take the most difficult version of the Georgian examination. As a result, only two out of 64 ethnic Armenians who applied passed the examination and were admitted. Previously students at the Akhalkalaki branch had been more or less equally divided between Georgians and Armenians. This was clearly an instance of *de facto* discrimination.

In 2006, some changes were made to the national entrance examinations. Most importantly for persons belonging to national minorities, the two different examinations in Georgian language and literature were replaced by just one examination, which all students were required to take. Although the new examination was supposed to be somewhat easier than the more difficult of the two examinations set in 2005, it contained works of early Georgian literature, which many observers believed would be challenging even for Georgians.<sup>42</sup>

Supporters of the changes denied that the new version of the examination would have a discriminatory effect by arguing that the 2006 examination marked an improvement from the 2005 model because the easier examination in Georgian Language and Literature only qualified those taking the examination to enter the few Russian language departments in Georgian universities, whereas the new version would open up *all* university places to linguistic minorities. They also asserted that whereas those taking the easier examination in 2005 were not able to sit Russian as their choice of foreign language in the national entrance examinations, in 2006 all non-Georgian speakers would be able to do so, providing them with a big advantage, given that most of those who do not have Georgian as a first language speak Russian fluently. Nevertheless, it would seem that this new opportunity would only benefit those pupils who go to Russian schools, rather than those who attend Azeri or Armenian schools, and it remained in doubt whether those living in areas compactly inhabited by persons belonging to national minorities would be able to attain the 15% minimum threshold in the Georgian examination that would enable them to enter university at all.

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<sup>42</sup> Interview with an official from the Ministry of Education, 3 August 2006.

Generally speaking, the education reforms that have been implemented so far have been directed towards the goal of promoting civic integration and providing persons belonging to national minorities with the vital educational tools that will enable them to succeed in the Georgian job market. However, the time frame that the reforms envisage for the acquisition of the Georgian language by school pupils and university students may not be realistic and may inadvertently result in discrimination against persons belonging to national minorities in areas in which they are compactly settled. This is because students from national minorities risk being disadvantaged by their inability to participate fully in the national curriculum and due to problems in acquiring the language skills necessary to pass the National Entrance examination and enter university. Such disadvantages could lead to problems in satisfying Article 4 of the FCNM (on ‘full and effective’ equality) and Article 12.3 on equal opportunities for access to education. There is also the risk of provoking precisely the opposite reaction to that which was intended; undermining the integration process by engendering a sense of hopelessness amongst students from isolated minority communities, rather than providing them with positive incentives to integrate. It may therefore be expedient, a) to extend the time frame within which core national curriculum subjects are to be taught in Georgian, and b) in the short term to introduce a quota system to allow persons belonging to national minorities in compactly settled communities to enter university until the knowledge of the state language in these communities is sufficiently developed for such a system to be no longer necessary. It is true that a consequence of this second measure may be that students would arrive at university with a poor command of Georgian; however the full immersion of such students in the mainly Georgian-speaking environment of the university would encourage the rapid learning of the language, especially if combined with well-designed Georgian courses for first-year students from national minorities. Such measures should ensure that talented and well-qualified persons belonging to compactly settled national minorities with a good knowledge of the state language would graduate from Georgia’s universities in the near future.

#### ***4. Access to Information for National Minorities (Media)***

The information vacuum in which members of compactly settled minority communities currently find themselves in Georgia is one of the key factors that hamper their integration into Georgian civic life. Alongside the vigorous programmes of Georgian language teaching that the government has already begun implementing, it is necessary to promote broadcasting in minority languages in order to keep persons belonging to national minorities informed of events that are taking place in their own country. Of relevance here is Article 9 of the FCNM, which states:

1. The Parties undertake to recognise that the right to freedom of expression of every person belonging to a national minority includes freedom to hold opinions and to receive and impart information and ideas in the minority language, without interference by public authorities and regardless of frontiers. The Parties shall ensure, within the framework of their legal systems, that persons belonging to a national minority are not discriminated against in their access to the media.
2. Paragraph 1 shall not prevent Parties from requiring the licensing, without discrimination and based on objective criteria, of sound radio and television broadcasting, or cinema enterprises.
3. The Parties shall not hinder the creation and the use of printed media by persons belonging to national minorities. In the legal framework of sound radio and television broadcasting, they shall ensure, as far as possible, and taking into account the provisions of paragraph 1, that persons belonging to national minorities are granted the possibility of creating and using their own media.
4. In the framework of their legal systems, the Parties shall adopt adequate measures in order to facilitate access to the media for persons belonging to national minorities and in order to promote tolerance and permit cultural pluralism.

Articles 9.2 and 9.3 are already basically satisfied by Georgia. Neither the Georgian government nor any non-state bodies prevents the licensing of media channels that broadcast in minority languages and there are no moves to hinder the creation and the use of printed media by persons belonging to national minorities.

However, the situation on the ground is that persons belonging to national minorities, especially Armenians and Azeris in Javakheti and Kvemo Kartli, do not have access to

Georgian media as they cannot understand the Georgian language. Instead they rely far more on information from Yerevan, Baku, Moscow or even Ankara, which does nothing to promote their integration. *De facto* most persons belonging to national minorities are discriminated against in their access to the media, which is inconsistent with Article 9.1 of the FCNM.

So how about the state's role in adopting 'adequate measures in order to facilitate access to the media for persons belonging to national minorities' as stated in Article 9.4? The Georgian Ministry of Culture funds several newspapers in minority languages, including the Armenian-language *Vrastan*, the Azeri language *Gurjistan* and the Russian-language *Svobodnaya Gruzia*. These are distributed to most main cities where the respective national minorities are concentrated. However, some representatives of minorities have complained that these newspapers are under-financed as central government funding has been cut back in recent years.<sup>43</sup> As for state television, according to Article 16 of the Law on Broadcasting (2004) that regulates it, the new public television (established in 2005) is obliged to 'highlight in its programmes the ethnic, cultural, religious, age and gender diversity existing in society' and to 'present programmes in minority languages, about minorities and prepared by minorities in corresponding proportions'. This is underlined by the programme priorities of public television for 2006 published on its website, which includes a pledge 'that the broadcasting information service should necessarily cover proportionally the problems and novelties of cultural or religious life of main national and religious groups living in Georgia'.<sup>44</sup> However, at the time of writing public television had made only very modest steps in this direction. While the news programme *Mtavari* ('The Main') on the First Channel does indeed broadcast in the Abkhazian, Ossetian, Armenian, Azerbaijani and Russian languages every day for 30 minutes (in a different language on each day of the week plus a short Russian news broadcast every day), the timing of the broadcasts (3 p.m.) is far from peak viewing time and as each language is only covered once a week the information is inevitably rather sparse.

In addition, the Georgian government facilitated the establishment in 2005 of *Alania TV*, the primary aim of which was to disseminate information in the Russian language to the population of the breakaway region of South Ossetia. It sparked a degree of controversy

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<sup>43</sup> For example, the ethnic Armenian MP Van Baiburt claimed that in 2005, *Vrastan* received only 15,000 Georgian Lari, compared to the 20,000 that should have allocated to it. See Media.ge (27 January 2006) at [http://www.media.ge/eng/news\\_detailed.php?id\\_numb=366](http://www.media.ge/eng/news_detailed.php?id_numb=366).

<sup>44</sup> See the website of Public Broadcasting of Georgia, [www.gpb.ge/board.prior.html](http://www.gpb.ge/board.prior.html).

as the *de facto* government of South Ossetia saw it as a propaganda exercise and attempted to block the transmission.<sup>45</sup>

There are also instances of local television stations broadcasting Georgian news in minority languages. Thus, in Javakheti two local channels, ATV-12 in Akhalkalaki and the Ninotsminda-based Parvana TV, rebroadcast news from Georgian TV channels with the help of simultaneous translation from Georgian to Armenian besides broadcasting local television programmes in Armenian. The simultaneous translations are funded by the *Conflict Prevention and Integration Programme* of the OSCE High Commission for National Minorities with support from the news agency Internews. At the time of writing, this scheme was being extended to the Marneuli and Bolnisi districts of Kvemo Kartli, where from May 2006 Bolnisi TV station TV-12 and Marneuli Branch of Kvemo Kartli TV and Radio Station began producing their own news broadcasts in Georgian and Azeri and re-broadcast bulletins of the public broadcasting channel with simultaneous translation into Azeri.<sup>46</sup> However, these projects are supported by international organisations, not the state. The state does nothing to hinder these activities, but does nothing to support them either. There are also a few privately-financed local newspapers in regions where persons belonging to national minorities are concentrated, but circulation is low and journalistic standards are poor.

Here the main policy implication is that the state could be rather more active in facilitating the dissemination of reliable information in minority languages. Changes to the state-run public television channel could allow broadcasts in minority languages in those regions in which minorities are concentrated. Generally, there is a need for public television to implement more fully its obligations under the Law on Broadcasting and the pledges it has made in its programme priorities.

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<sup>45</sup> Molly Corso, 'Television Station in Georgia Operates Mysteriously, Generates Controversy' (Eurasia Insight, 22 May 2006) at <http://www.eurasianet.org/departments/insight/articles/eav052206a.shtml>.

<sup>46</sup> Internews Georgia, 'Marneuli TV Station Launches Simultaneous Translation; (17 May 2006) at [http://www.gipi.ge/eng/news\\_detailed.php?id\\_num=225](http://www.gipi.ge/eng/news_detailed.php?id_num=225).



## ***5. Economic Opportunities for National Minorities***

Equality of opportunities in economic life is regulated by Article 4.2 of the FCNM, which states that '[t]he Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of *economic*, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority' and Article 15, which exhorts the Parties to 'create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and *economic* life and in public affairs, in particular those affecting them' (*italics mine*).

In Georgia, economic opportunities are far from equal. While inequality is a general social problem, rather than one specifically affecting persons belonging to national minorities, in certain respects members of national minorities are disproportionately affected. First, resources are distributed unequally between regions, with the regions furthest from Tbilisi and mountainous regions suffering from relative deprivation. These include both the more remote regions dominated by Georgians such as Racha-Lechkhumi, Svaneti, and Guria as well as Samtskhe-Javakheti, most notably Akhalkalaki and Ninotsminda districts, where the population is mainly Armenian. This has led to a perception amongst the local Armenian population that the region is being deliberately deprived of resources in order to force them to leave. While this perception is not accurate as many predominantly Georgian regions are equally deprived, the poor economic situation in Akhalakali and Ninotsminda districts impedes the civic integration of the Armenian minority there.

Secondly, problems regarding the distribution of land in mainly Azeri-populated regions of Kvemo Kartli have led to inequalities. According to the Resolution of the State Council of the Republic of Georgia No. 10 (1992), no land could be privatized within 21km of the state border. This Resolution redistributed land from the former collective farms to private owners, paving the way for the formal privatisation process, which began after the Law on the Ownership of Agricultural Land was passed in 1996. The 21 km limitation was cancelled by Resolution No. 815 of the Cabinet of Ministers of Georgia on November 29, 1994 in the regions where land distribution had not been conducted, although the law On the State Border (1998) defined a 5km border zone and a 500m border line in which land privatization remained restricted. Moreover, by the time the 21 km restriction was lifted, much of the land

near the border had already been leased out by the state in a manner which, critics claimed, was non-transparent. Subsequently there was no opportunity for those affected by this law to get the land back and their land allocation was restricted to their household plot (generally 0.15-0.25 hectares). On the other hand, those that benefited fully from the distribution of collective farm land received up to 1.25 hectares. Although the 21km rule ostensibly applied to all those living close to the state border, in practice it was applied selectively only to Kvemo Kartli and (to a lesser extent) Samtskhe-Javakheti, where ethnic minorities are concentrated. The main losers were ethnic Azeris in Marneuli and Bolnisi districts, while the main beneficiaries were local power-brokers and wealthy businessmen from Tbilisi, most (but not all) of whom were ethnic Georgians. Conflicts over land distribution risked becoming violent; one such dispute in December 2004 in the village of Kulari (Marneuli district) between local inhabitants and employees of the Tbilisi-based Jockey Club, which owned a large horse farm near the village, resulted in the death of an elderly Azeri woman.

In July 2005 the Parliament of Georgia adopted the Law on Privatization of Agricultural Land Owned by the State. According to this Law, plough land, meadows, land under perennial plants, artificial fishing ponds and general water objects previously owned or leased by the state became subject to privatization. It now became possible to privatize land within the border zone; even land along the border line (i.e. within 500m of the border) could be privatized on a case by case basis with the permission of the Georgian government. However, some land, including pastures, cattle driving routes, recreational land, and lands under historical, cultural, nature and religious monuments, would remain in the hands of the state. Privatization was to be conducted both through auctions and by direct sale; land would be sold by means of an auction if it had not been leased, while leased land could be bought through direct sale. As a result of the new law, land along the border with Azerbaijan around the village of Vakhtangisi was privatized, and the principal beneficiaries were Azeri villagers. Similarly, in certain locations in Kvemo Kartli where violations in the original leasing process were revealed, the leased land was taken away from the lessees and sold by special auction to the local population, and once again the main beneficiaries were Azeris.<sup>47</sup> Nevertheless, by 2006 many Azeri villagers still had no more than their household plots and in March anger over the slow pace of land redistribution once again led to clashes, this time in the village of

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<sup>47</sup> Information obtained from the *Association for the Protection of Landowners' Rights*.

Damia-Giaurarkhi in Marneuli *rayon* where a number of local Azeris were arrested following a demonstration over unfair land privatization.

## ***6. Minority Family Names and Toponyms***

According to Article 11 of the FCNM:

1. The Parties undertake to recognise that every person belonging to a national minority has the right to use his or her surname (patronym) and first names in the minority language and the right to official recognition of them, according to modalities provided for in their legal system.
2. The Parties undertake to recognise that every person belonging to a national minority has the right to display in his or her minority language signs, inscriptions and other information of a private nature visible to the public.
3. In areas traditionally inhabited by substantial numbers of persons belonging to a national minority, the Parties shall endeavour, in the framework of their legal system, including, where appropriate, agreements with other States, and taking into account their specific conditions, to display traditional local names, street names and other topographical indications intended for the public also in the minority language when there is a sufficient demand for such indications.

With respect to surnames, most persons belonging to national minorities retain their distinctive surnames and there is little if any pressure to change them. This has not always been the case, however, and during the Soviet period there was a tendency for members of national minorities to Russianise and (later) Georgianise their surnames. Thus, most Azeris changed the endings of their surnames from the traditional –li to the Russian form –ov and on occasions (but more rarely) Armenians changed their names from –yan to –ov. During the late Soviet period, as the titular nationalities of the union republics increasingly gained ‘favoured status’ within their republics, some persons belonging to national minorities also Georgianized their names. This applied most of all to members of the Armenian minority who changed the endings of their surnames to –shvili or –dze in order to improve their employment prospects within the state bureaucracy. This process accelerated during the Gamsakhurdia period (1990-91), when more direct pressure was applied to encourage persons belonging to national minorities to change their surnames. According to representatives of national minorities,

letters were sent to families of national minorities offering them the opportunity to change their names legally. Since Gamsakhurdia's overthrow, few instances of such practices have been observed.

Here it is worth pointing out that the voluntary choice of an individual to change his or her surname and not to consider himself or herself a member of a national minority is entirely compatible with the FCNM. According to Article 3.1, '[e]very person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice.' However, any pressure applied by the authorities or any other body to influence that choice would clearly be contrary to the FCNM.

The most contentious issue is that of toponyms, most notably village names in Azeri-populated areas of Kvemo Kartli, especially in Bolnisi district. Local Azeris in Bolnisi district complain that the names of their villages were forcibly renamed to Georgian form during the Gamsakhurdia period and their petitions to change them back have repeatedly fallen on deaf ears. The issue of place names is highly sensitive in Georgia; it is noteworthy that the naming and renaming of villages and towns in Abkhazia was observed frequently during the 1992-93 war there. The fact that the Georgian Parliament's Resolution on the Ratification of the Framework Convention for the Protection of National Minorities contained the declaration (with respect to Article 11.3 of the FCNM) that 'Georgia does not consider [the right to display toponyms in minority languages] ... as obliging the State to change existing names of territorial units and considers it inappropriate to sign further international treaties on the above-mentioned issue' shows that certain sensitivities still remain.

On the other hand, it is encouraging to note that the latest version of the draft Concept on the Protection and Integration of Persons Belonging to National Minorities drafted by the Parliamentary Committee for Human Rights and Civic Integration (see above) contains the suggestion that '[i]n areas and regions compactly inhabited by national minorities, the names of settlements and streets, as well as other toponymic designations can be used both in Georgian (also Abkhazian on the territory of the Abkhaz Autonomous Republic) and in local national minority languages when possible and necessary.' It is very much hoped that these pledges will be reflected in future legislation. There is some argument for creating a state body to administrate both the naming of villages and signposting, as well as to consider petitions from citizens for name changes. There is also a need to introduce legislation to allow

village-level referenda to amend the names of villages. It must be pointed out, however, that this issue is generally seen by the Azeri community as being of lower priority than other issues, notably distribution of land, and care must be taken not to make what is at present a relatively minor issue into something that could potentially be divisive.

## ***7. Culture and Religion***

The article of the FCNM that deals with the general issue of culture is Article 5. Article 5 states:

1. The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.
2. Without prejudice to measures taken in pursuance of their general integration policy, the Parties shall refrain from policies or practices aimed at assimilation of persons belonging to national minorities against their will and shall protect these persons from any action aimed at such assimilation.

As regards religion, the relevant article is Article 8, which states that '[t]he Parties undertake to recognise that every person belonging to a national minority has the right to manifest his or her religion or belief and to establish religious institutions, organisations and associations.' Also relevant to the right to observe one's religion is Article 7, which provides for freedom of religion for persons belonging to national minorities.

Cultural associations that represent members of national minorities are not restricted in Georgia. According to Article 6 of the Law on Culture (1997) on an individual's right to cultural activity, citizens of Georgia are equal in cultural life, irrespective of their national, ethnic, religious or linguistic affiliation. However, since the collapse of the USSR and the closure of the state-run 'houses of culture', the Ministry of Culture has been largely unable to fund cultural activities for national minorities. Apart from the three minority language newspapers that the Ministry funds (see above), it has also earmarked limited funds for the Petros Adamyan Armenian Dramatic Theatre and for at least two museums dedicated to national minorities – the Azeri Mirza Fatali Akhundov House Museum and the D. Baazov Georgian Jewish

Historical Ethnographical Museum. Despite these few examples, however, state funding for minority organisations is minimal.

As to Article 5.2, that the state should refrain from policies or practices aimed at assimilation, minority representatives have on occasions voiced fears that the Georgian government is aiming to dilute their distinctive identity through a process of linguistic assimilation. However, as the experience of minorities both in the European Union and in Central and Eastern Europe clearly demonstrates, gaining knowledge of the official language of the state does not mean losing one's own language or culture. Possibly, the fear of assimilation has been augmented by the statements of certain Georgian government officials on the benefits of 'teaching Georgian national consciousness to members of national minorities'.<sup>48</sup> Care clearly needs to be taken to avoid statements that can easily be misconstrued.

However, it is not the larger minorities who express such fears that are at risk of cultural and linguistic assimilation; rather it is the smaller minorities who have few opportunities to maintain their cultural distinctiveness and may even feel that it is to their advantage to assimilate. Above all, this applies to the very smallest minorities, such as the Udis, who live in the village of Oktomberi in Kvareli district and whose language and culture are disappearing due to a lack of interest amongst the younger generation in maintaining them. It also applies to the Assyrians settled in communities west of Tbilisi, where all children go to Georgian schools and are beginning to forget their own language. The minorities that are vulnerable to assimilation are not the Armenians and the Azeris, who have their own kin-states and who are adept at publicising their cause, but those smaller minorities such as the Assyrians, Kurds, Avars and Udi, who have no kin state and few resources at their disposal to preserve their culture and language.

Turning now to religion, generally speaking freedom of religion in Georgia is respected and persecution on religious grounds is rare. The Criminal Code contains articles that prevent such persecution: namely Article 142, which prohibits violation of the equality of persons (including on the grounds of religious attitudes and confessions), Article 155 which prevents unlawful interference with the exercise of religious practices, Article 156, which prohibits persecution on religious or other grounds, and Article 166, which prohibits interference with

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<sup>48</sup> Speech by President Mikheil Saakashvili to the congress of the National Movement on 22 November 2004. Source: BBC International Reports (Former Soviet Union) 22 November 2004. Original Source: Imedi TV, Tbilisi, in Georgian 1200 gmt 22 November 2004.

the creation or activities of political, public or religious organisations. However, these provisions have not always been implemented, especially with regard to the treatment of small non-traditional sects, such as the Jehovah's witnesses, who suffered attacks from Orthodox extremists during the period 1999-2003. However, since the 'Rose Revolution', these attacks have all but ceased and the main figure that instigated them, a fundamentalist former priest called Vasil Mkalavishvili, was arrested in 2004 and later imprisoned. It must also be pointed out that the violence that occurred during that period was not directed at persons belonging to national minorities in particular; both Georgians and persons belonging to other nationalities joined these sects and were equally subject to harassment.

While religious persecution is rare, the different religions that are observed in Georgia are not treated equally. The Georgian Orthodox Church has pride of place and its special status is enshrined in Article 9 of the Georgian Constitution, which was amended in 2001 as a result of pressure from the Orthodox Church. Article 9 states:

1. The state shall declare complete freedom of belief and religion, as well as shall recognise the special role of the Apostolic Autocephalous Orthodox Church of Georgia in the history of Georgia and its independence from the state.
2. The relations between the state of Georgia and the Apostolic Autocephalous Orthodox Church of Georgia shall be determined by the Constitutional Agreement. The Constitutional Agreement shall correspond completely to universally recognised principles and norms of international law, in particular, in the field of human rights and fundamental freedoms.

Following this constitutional amendment, in October 2002 a Concordat was signed between the State and the Georgian Orthodox Church, according to which the State recognizes the Church as a legal body with special legal status. No other religious body enjoyed such status; in fact, it was unclear even whether religious organisations could register as associations (i.e. as NGOs) under the provisions of the Civil Code. Indeed, a ruling by the Supreme Court in February 2002 appeared to suggest that such a course of action was problematic; the Court declared that an attempt by the Jehovah's Witnesses to register as an association was invalid. Although Article 1509 of the Civil Code, which defines what organisations can be recognized as Legal Persons, includes 'religious associations' as Legal Persons of Public Law, the Jehovah's Witnesses had attempted to register as a union under private law. According to the

Georgian Young Lawyers' Association, in 2003 no religious group was officially registered as a religious association as there was no mechanism for registering as a public entity.<sup>49</sup> As the Soviet-era Code of Administrative Offences (1984), which prohibited the avoidance of registration of a religious union, remained in force, without formal registration non-Orthodox religions remained vulnerable. In September 2003, negotiations were held between the Georgian government and the Vatican in order to finalise an agreement guaranteeing legal rights for Catholics; however, at the last moment Shevardnadze refused to sign the agreement as a result of public protest.

In April 2005, the Georgian Parliament passed an amendment to the Civil Code allowing religious associations to register as private, non-commercial entities and removed the offending article from the Code of Administrative Offences prohibiting unregistered religious associations. Nevertheless, the major non-Georgian churches, i.e. the Armenian Apostolic Church, the Catholic Church and the Lutheran Church, still refused to register as associations on the grounds that they merited higher status than that of private NGOs when the Georgian Orthodox Church was a legal public entity. In another sign of opening up to minority religions, in March 2005 President Saakashvili announced that the Muslim New Year would become a voluntary public holiday for Georgian Muslims.

Despite these positive trends towards religious tolerance, there is still not a level playing field between the Georgian Orthodox Church and other churches. In particular, the privileged status of the Georgian Church has led to accusations of religious discrimination from the Armenian Church over the contentious issue of disputed ownership of church buildings. There are a number of churches in Tbilisi and elsewhere that the Armenian community claims have been taken over by the Georgian Orthodox Church. Particularly sensitive is the issue of Norashen church, a church that belonged to the Armenian Apostolic Church prior to the establishment of the Soviet Union, was used as a library for the Academy of Sciences during the Soviet period and was finally 'occupied' and consecrated by the Georgian Patriarchy in 1995. After a fierce dispute, the Patriarchy agreed to leave the church, but the Armenian Church was not granted custody either. Even in 2005, the dispute was still not settled and the Armenian side claimed that the Georgian Orthodox priest who had been

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<sup>49</sup> Giorgi Chkeidze, "The Legal Regulation of Religious Organisations in Georgia" at <http://www.efc.be/cgi-bin/articlepublisher.pl?filename=GC-SE-06-03-1.html>.



responsible for occupying the church in the 1990s was once again attempting to gain control.<sup>50</sup> A similar incident occurred (also in 2005) in the village of Samsari in Akhalkalaki district, where a group of young Georgians entered a church they claimed was theirs and began to clean it. This provoked a heated reaction from the local Armenian population and fight ensued. Armenian community leaders believe the special status granted to the Georgian Orthodox Church makes it difficult for them to voice their claims and defend their churches.

If a well-established religious organisation such as the Armenian Orthodox Church finds it difficult to defend its religion, it is clearly far more difficult for smaller minority groups that practice a religion that is not backed by any outside power. Generally, the problems faced by smaller religious groups (except, of course, the Jehovah's Witnesses) are not so much the result of pressure from the Georgian Orthodox Church, but are rather caused by neglect and by a lack of support from any state, non-state or foreign organisation. Above all, this applies to the Yezid (Kurdish) religion, an old monotheistic religion said to date back to around 1000 BC, which is little known and therefore poorly protected. The *National Congress of Kurd-Yezids of Georgia* and the *Union of Georgian Yezids* are the main organisations that defend the Yezid culture and religion, but these organisations are rather poorly funded. Over the next decades there is a risk that this religion could gradually disappear.

As for policy implications, there is a clear need for a law that will give all religious groups legal status as religions, rather than as NGOs. This will provide better legal protection for minority religions than that which exists at present. If legal status were given to *all* religions, it may make the special Concordat established between the State and the Georgian Orthodox Church irrelevant. Repealing the constitutional amendment that gives a special role to the Georgian Church would also help produce the level playing field that would better allow minority religions to flourish. Nevertheless, such a move may well be met with stiff resistance from many Georgians and from the Georgian Orthodox Church itself. When on 23 December 2005 the Public Defender of Georgia criticised the Concordat for violating the principle of equality enshrined in the Georgian Constitution and international conventions as part of his six-monthly report to the Georgian Parliament, his statement was heavily criticised

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<sup>50</sup> Interview with minority representatives, 13 July 2006.

by lawmakers. Although they approved his report in a parliamentary debate in February 2006, at the same time they passed a resolution declaring the Concordat ‘untouchable’.<sup>51</sup>

Finally, the Georgian government could establish some kind of commission staffed by members of the Georgian Orthodox Church, the Armenian Orthodox Church, as well as local and international experts in order to decide the status of church buildings whose ownership is disputed between the two religions. In doing so, the government would need to adopt a position of neutrality and allow the commission to accomplish its work without interference.

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<sup>51</sup> *Civil Georgia: Online Magazine*, 23 December 2005 and 17 February 2006.

### **8. Rule of Law**

Under the broad rubric ‘rule of law’ it makes sense to consider three distinct, but interrelated questions. First, does the law protect persons belonging to national minorities against discrimination, inflammatory rhetoric and ethnic violence? Secondly, are persons belonging to national minorities treated *de facto* in a different way by law enforcement agencies; in other words are they subject to disproportionately higher levels of arrest or police attention? Third, there is the question of the extent to which persons belonging to national minorities actually know the law and are therefore able to seek redress if they are victims of discrimination. Finally, of specific relevance to the FCNM is the relationship between international law and domestic law; in other words whether international treaties ratified by the Georgian Parliament have priority over domestic law.

Of relevance to these ‘rule of law’ issues are Articles 4, 6 and 10.3 of the FCNM. Article 4.1, states that ‘[t]he Parties undertake to guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law. In this respect, any discrimination based on belonging to a national minority shall be prohibited’, while Article 6.2 exhorts ‘[t]he Parties’ to ‘undertake to take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity’. Finally, Article 10.3 deals with the rights of those arrested by requiring specifically that ‘[t]he Parties undertake to guarantee the right of every person belonging to a national minority to be informed promptly, in a language which he or she understands, of the reasons for his or her arrest, and of the nature and cause of any accusation against him or her, and to defend himself or herself in this language, if necessary with the free assistance of an interpreter.’

Looking first at the issue of equality of persons belonging to national minorities before the law and prohibition of discrimination, as enshrined in Article 4.1 of the FCNM, the Georgian legal framework would appear to satisfy this condition. Article 38.1 of the Georgian Constitution states: ‘Citizens of Georgia shall be equal in social, economic, cultural and political life irrespective of their national, ethnic, religious or linguistic belonging. In accordance with universally recognised principles and rules of international law, they shall have the right to develop freely, without any discrimination and interference, their culture, to use their mother tongue in private and in public.’ Similarly the Criminal Code (1999, last

amended 2006) makes special mention of ethnically and religiously motivated crime. Article 147 is specifically targeted towards discrimination:

1. Violation of the equality of humans based on race, colour, language, sex, religion, belief, political view, or national, ethnic, social belonging, also based on origin, place of residence and material conditions, that violated their human rights and legal interest shall be punished by a penalty equal to from fifty to hundred times the daily salary, or by labour in a penalty for a period up to one year, or by the deprivation of liberty for a period up to two years.
2. The same action committed as a result of abuse of authority that was followed by grave consequences shall be punished by a penalty equal to from hundred to hundred and fifty times the daily salary, or by the deprivation of liberty for a period up to three years with or without dispossession of the right to work for a period up to five years.

Moreover, according to the Criminal Code ‘national, ethnic, racial and religious hatred or hostility’ is an aggravating circumstance for crime in general and for pre-meditated murder and pre-meditated injury to health specifically. In addition, genocide, defined as an ‘action committed for the fulfilment of an agreed plan to completely or partly annihilate some groups of people united under national, ethnic, racial, or religious motive’ is punishable either by anything from twelve years imprisonment to indefinite imprisonment. Thus at least the letter of the law appears to protect persons belonging to national minorities adequately.

As to whether persons belonging to national minorities are treated equally by law enforcement agencies or whether they are targeted disproportionately, if we look at the general picture we find no evidence of systematic discrimination. Out of a total prison population of 12,500 in 2006, just over two thousand prisoners belong to national minorities. Thus, the proportion of persons belonging to national minorities in prison corresponds almost exactly with the proportion of persons belonging to national minorities amongst the population at large.

However, individual instances of discrimination against persons belonging to national minorities by law enforcement agents have been reported. Specifically, the report on human rights presented by the Public Defender of Georgia to the Georgian Parliament in December 2005 catalogues a number of cases of discrimination and arbitrary repression by police and

security services.<sup>52</sup> In particular, there was the case of an Armenian man in Akhaltsikhe who was forced to sign a protocol of his interrogation even though it was written in Georgian, a language he did not understand. He was also denied the assistance of an interpreter.

This leads us to Article 10.3 of the FCNM, which guarantees the right of persons belonging to national minority to be informed promptly of the reasons for their arrest in a language which they understand and to be provided with an interpreter should the need arise. Georgian law is, in fact, fully consistent with this article. The Georgian Constitution (Article 85.2) stipulates that in legal proceedings ‘[a]n individual not having command of the state language shall be provided with an interpreter’ and this constitutional clause is also incorporated into the 1997 Law on Common Courts. In most cases this legal stipulation is implemented in reality, although as the case in Akhaltsikhe demonstrates, there are some isolated instances in which this law is not implemented.

The main problem, however, remains the degree of knowledge amongst persons belonging to national minorities about the laws that are supposedly protecting them. This problem does not apply equally to *all* persons belonging to national minorities; it applies particularly to those who have insufficient knowledge of the state language to understand these laws as they are promulgated. In other words, the Armenian and Azeri inhabitants of Javakheti and Kvemo Kartli are especially disadvantaged in this respect. Local and national NGOs have worked hard in recent years to acquaint these communities with their laws, but more work needs to be done. In the long term it is to be hoped that increasing knowledge of Georgian will overcome these difficulties. In the short term it remains necessary to provide accurate and up-to-date translation of all relevant legislation in minority languages.

As to the final point, whether international treaties ratified by the Georgian Parliament have priority over domestic law, the answer is in the affirmative. According to Article 6.2 of the Constitution, amended in 2001 ‘[t]he legislation of Georgia shall correspond to universally recognised principles and rules of international law. An international treaty or agreement of Georgia unless it contradicts the Constitution of Georgia, the Constitutional Agreement, shall take precedence over domestic normative acts.’ It is clear, therefore that in the event of a contradiction, the FCNM will take precedence over domestic law, as long as it does not violate the Constitution.

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<sup>52</sup> Report of the Public Defender of Georgia, presented to Parliament on 23 December 2005, available at [www.regnum.ru/news/569444.html](http://www.regnum.ru/news/569444.html).

## IV CONCLUSION

As Georgia prepares to implement the Framework Convention for the Protection of National Minorities two main challenges lie ahead. These challenges are interconnected and both relate to the balance between integration of national minorities into civic life on the one hand, and the need to protect persons belonging to minorities from *de facto* discrimination on the other. The first of these is the challenge of ensuring that persons belonging to national minorities learn the state language and are therefore able to participate fully in the political, social and economic life of the country. Here it is essential to ensure that the measures taken to promote the state language in the different fields of social and political life, most importantly in education and in public administration, do not result in discrimination against a part of the minority population and thereby undermine incentives towards integration.

The second and probably greatest challenge is that of developing a civil society in Georgia that is able to cross ethnic boundaries; in short, to create a set of values that all Georgian citizens can identify with, irrespective of their ethnicity. This necessarily involves moving away from the rigid concept of ethnic identity as ‘Georgians’, ‘Azeris’, ‘Armenians’, ‘Russians’ or ‘Ossetians’ and developing a civic notion of identity. Clearly this is not something for the Georgian state to ‘create’; instead it must involve all sectors of society from both the Georgian majority and non-Georgian minorities through the gradual establishment of cross-cutting networks linking different sectors of society. The Georgian government can facilitate this process by providing in all parts of the country a level of delivery of public goods that is generally expected of all modern states and by avoiding the use of ethnically exclusive discourse. It can also promote the participation of national minorities in public decision-making by establishing genuine local self-government in all regions of Georgia in which locally elected bodies are both accountable to their electorate and have real influence over local affairs. Whatever specific mechanisms are adopted, closer and mutually reinforcing ties between the state and all sectors of civil society can only facilitate the development of a non-ethnic notion of citizenship.

## APPENDIX: NATIONAL MINORITIES LIVING IN GEORGIA

Below is a brief description of all national minorities living in Georgia that make up at least 0.05% of the country's population. A list is also provided at the end of other smaller minorities with a brief description where necessary. The details provided below include data from population censuses on the numerical strength of each minority and how they are distributed geographically, as well as information on the religions they practice and the educational establishments at their disposal. It also provides an overview of their most pressing needs as articulated by the main organisations that represent them.<sup>53</sup> The minorities are listed in order of population, with the numerically largest minorities listed first. Due to a lack of data from the breakaway regions of Abkhazia and South Ossetia, it was not possible to include data on minorities living in these two regions.

### *1. Azeris*

The Azeri population of Georgia is 284,761 according to the 2002 National Census, or 6.51% of the population. This represents a slight decrease from 307,556 in 1989. Azeris are concentrated in the province of Kvemo Kartli, especially Marneuli district, where they make up 83.1% of the population, Dmanisi district (66.8%), Bolnisi district (66.0%) and Gardabani district (45.1%). They also have a significant presence in Kakheti, particularly Sagarejo district (31.9%) and Lahodekhi district (22.3%). The population is predominantly rural; only the city of Marneuli is mainly Azeri, although there is also a large Azeri population in Gardabani. Previously there was also a significant Azeri population in the city of Bolnisi but most left during the wave of nationalist mobilisation in 1989-91.

Azeris are predominantly Muslim. According to most sources, there are more Shi'ite than Sunni Muslims amongst the Azeri population, but the division between the two groups is

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<sup>53</sup> In order to obtain this data, interviews were carried out in July 2006 with representatives from the *Council of National Minorities* under the Ombudsman's Office, including Farkhat Musaev, independent legal expert; Karen Elchyan, President of the *Armenian Centre of Co-operation of Georgia*; David Adamov, *National Congress of Assyrians of Georgia*; Rostom Atashev, *Union of Yezids of Georgia*; Tengiz Gagloev, *Association of Ossetians of Georgia*; Agit Mirzoev, *National Congress of Kurd/Yezids of Georgia*; Kiriak Iordanov, *Federation of Greek Communities of Georgia*.

of little salience to most Azeris and many are unable to classify themselves as one or the other. The Azeri language belongs to the Ogoz group of Turkic languages. In 2000, it was reported that there were 167 Azeri schools in the territory of Georgia.<sup>54</sup>

The most pressing problem for the Azeri community is a shortage of land in those areas in which they are concentrated, particularly the Marneuli and Bolnisi districts of Kvemo Kartli. The fact that land was not fully distributed within 21km of the state border during the early to mid-1990s has meant that the Azeri community in this area has been seriously disadvantaged in terms of access to land. There is also the problem of integration and participation, as most Azeris living in rural areas of Kvemo Kartli are unable to speak Georgian and are therefore unable to participate in civic and political life.

## **2. Armenians**

According to the 2002 census, there are 248,929 Armenians in Georgia, or 5.69% of the population. This marks a sharp fall in the population from the 1989 Census, when 437,211 Armenians were recorded. The Armenian population is concentrated in the Akhalkalaki and Ninotsminda districts of Samtskhe-Javakheti, where respectively they make up 94.3% and 95.8% of the population. According to the 2002 census, Armenians make up 54.6% of the population of Tsalka district, although this is probably an exaggeration because there are a large number of Georgians migrants from Adjara and Svaneti who are not registered. In addition, there are a large number of Armenians in Akhaltslikhe district (36.6% of the population). Finally, according to the 2002 census there are 82,586 Armenians in Tbilisi, making up 7.6% of the city's population.

Around 90% of Georgia's Armenians belong to the Armenian Apostolic Church, while around 10% are Roman Catholics. Most Armenian Catholics live in Akhalkalaki and Ninotsminda districts. The Armenian language belongs to its own distinct group within the Indo-European family. In 2000, there were 183 Armenian schools in Georgia.<sup>55</sup> Most of these are concentrated in the province of Samtskhe-Javakheti, especially in Akhalkalaki and

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<sup>54</sup> Federal Union of European Nationalities, *Fact-Finding Mission to Georgia October 2000* at <http://fuen.org/pdfs/200010FFMGeorgia.pdf>.

<sup>55</sup> Ibid..



Ninotsminda districts. There are two Armenian schools in Tbilisi, as well as five Armenian departments in other (mixed) schools. Many Armenian pupils also attend Russian schools; according to one Armenian community leader around 70% of pupils at Russian school in Tbilisi are ethnic Armenians.

Of particular concern to the Armenian community is the need to preserve their language and culture. In recent years, the issue of disputed ownership of churches has become especially contentious, as representatives of the Armenian minority have accused the Georgian Orthodox Church of appropriating churches that should rightfully belong to the Armenian Apostolic Church. Another major issue, both for the state and for the Armenian population, is how to integrate the Armenian communities in Akhalkalaki, Ninotsminda and Tsalka districts into Georgian civic and political life. Throughout the 1990s and early 2000s, these communities (like other more remote rural communities in Georgia) were largely neglected by the state and no serious attempt was made at integrating them through the teaching of the state language.

### ***3. Russians***

Formerly the dominant nationality of the USSR, Russians nowadays represent a very small minority in Georgia; according to the 2002 Census, only 1.55% of Georgia's population are Russians. Between 1989 and 2002, the Russian population fell from 341,172 to 67,671, a drop of 80% that was mainly caused by emigration to Russia. Previously Russians were concentrated in the major urban centres of Georgia; in 1979, Russians made up 23.7% of the population of Poti, 20.3% in Batumi, 17.8% in Rustavi and 12.2% in Tbilisi. Today, while Russians are still concentrated in urban centres, their numbers even here are depleted. Thus in 2002, 5.2% of Batumi's population was Russian, compared with 4.0% in Poti, 3.1% in Rustavi and 3.0% in Tbilisi.

Most Russians belong to the Russian Orthodox Church. However, there are small communities of Russian non-conformists (Dukhobors and Molokans) in a few villages. The Dukhobors settled in seven villages of what is now Ninotsminda district – Gorelovka, Orlovka, Spasovka, Yefremovka, Bogdanovka (Ninotsminda), Tambovka and Rodionovka – in the nineteenth century in order to escape religious persecution, but today few remain.

According to representatives of the Dukhobor minority, there are only 800 or so Dukhobors today, most in the village of Gorelovka, with smaller populations in Spasovka and Orlovka. There are even fewer Molokans left; according to the 2002 census there were around 180 Molokans in the village of Uilanovka in Signaghi district and another 60 or so in Krasnogorska in Sagarejo district. The Russian language belongs to the Slavic group of the Indo-European family of languages. In 2000, it was reported that there were around 214 Russian schools in Georgia, of which 127 were bilingual and 87 were exclusively Russian.<sup>56</sup> In addition, there are several Russian language departments in state-accredited universities, including Tbilisi State University and Tbilisi State Medical University.

The main issue facing the Russian population of Georgia is emigration. As mentioned above, about four-fifths of the entire Russian population has left Georgia since 1989. The Dukhobor and Molokan communities are particularly vulnerable; there is a danger that these two communities may disappear entirely from Georgia in the next decade or two. The Dukhobor community also faces the problem of inadequate access to land; preferring communal agriculture, many Dukhobors did not participate in the land privatisation process and face the risk of losing to other communities land that they had previously tended.

#### ***4. Ossetians***

Following the war over South Ossetia of 1991-92, the number of Ossetians outside the breakaway region has shrunk considerably. According to the 1989 census, there were 164,055 Ossetians in the whole of Georgia, or 3.0% of the population. According to the 2002 Census, which excludes the breakaway region<sup>57</sup>, there were 38,028 Ossetians, or 0.87% of the population. Comparing the 1979 and 2002 Census results, we see that in certain parts of Georgia the Ossetian population has declined very rapidly; during this 23-year period the proportion of Ossetians declined from 48.5% to 14.4% in Akhalkori district, from 17.7% to 5.5% in Kareli district, from 12.4% to 4.7% in Akhmeta district, from 11.1% to 4.3% in Gori district and from 10.0% to 2.2% in Borjomi district. During the period of nationalist mobilisation in 1989-1992, many Ossetians were expelled from these regions.

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<sup>56</sup> Ibid..

<sup>57</sup> However, it includes the district of Akhalkori which was a part of South Ossetia during the Soviet period, but remained under the control of the Georgian government after the 1991-92 war.

Most Ossetians declare themselves as Orthodox Christian, although their religion contains some elements of paganism. A small minority are Sunni Muslims. The language belongs to the Iranian group of the Indo-European languages. Although on paper there are several Ossetian schools in Georgia (outside the conflict zone), mainly in Akhmeta district, according to a representative of the Ossetian community in Georgia, these schools are Ossetian in name only and do not even teach the Ossetian language.

The main issue facing the Ossetian community is the continuing uncertainty regarding the status of South Ossetia and the potential knock-on effect that any resumption of hostilities in the conflict zone could have on the Ossetian population elsewhere in Georgia. Another problem is the lack of cultural facilities; there are basically no officially-sponsored Ossetian cultural associations at all outside the conflict zones and no private clubs or Sunday schools where Ossetians can learn their own language. The result is that most Ossetians speak Georgian or Russian, rather than their mother tongue.

## 5. *Kurds/Yezids*

The term ‘Kurd’ refers to an ethnolinguistic group that is dispersed over parts of the southern Caucasus, Turkey and the northern Middle East (mainly Iran, Iraq and Syria). The term ‘Yezid’ refer to the community of Kurds that has retained its traditional religion. According to the 2002 Census there are 18,329 Yezids and 2,514 Kurds. However, according to representatives of the Yezid community in Georgia, there is no real distinction between these two communities. Virtually all Georgian Kurds are Yezids, except for a tiny minority of Muslim Kurds who are mainly nomadic citizens from Azerbaijan.<sup>58</sup> Thus in 2002 Kurds/Yezids made up 0.48% of the population of Georgia. Above all, they are concentrated in Tbilisi; 1.6% of Tbilisi’s population identified themselves as ‘Yezids’ in 2002 (although this does not include those who identified themselves as ‘Kurds’). There is also a significant population of Kurds/Yezids in the town of Telavi.

The Yezid religion is a highly complex and little-known monotheistic religion that is often described as ‘pagan’. The Yezid God, Malak Tawus, sometimes referred to as the ‘Peacock Angel’, symbolises fire and encapsulates both good and evil. There is controversy over the origins of the religion; some scholars claim that it was founded by Sheikh Adi ibn Mustafa during the 12<sup>th</sup> and 13<sup>th</sup> centuries, although most Yezids claim that their religion is far older and co-existed alongside Mithraism in the beginning of the first Millennium BC. Whatever its origin, it is clearly influenced by Sufi Islam, Judaism, Christianity and, above all, by Zoroastrianism. Yezids are divided into three castes: two elite castes, the sheikhs and the pirs, and a lower caste, the murids. The sheikhs and the pirs are charged with instructing the rest of the community on matters of religion; the former group is expected to perform the role of ‘spiritual brothers’, while the latter are ‘spiritual teachers’. Yezid society is endogamous and every Yezid male has a ‘spiritual brother’ and a ‘spiritual teacher’ drawn from sheikh and pir families with which his family has had a spiritual relationship over generations. The mother tongue of Georgian Yezids is the Kurmanji dialect of Kurdish, an Indo-Iranian language that belongs to the Indo-European family. There are no Kurdish schools in Georgia, although two privately-funded Kurdish societies, the Union of Yezids of Georgia and the

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<sup>58</sup> Federation Internationale des Ligues des Droits de l’Homme, *International Fact-Finding Mission: Ethnic Minorities in Georgia*.

National Congress of Kurd/Yezids of Georgia teach the Kurdish language and religion to young Yezids.

The main threat facing the Kurd/Yezid population of Georgia is the loss of the language and religion. According to Agit Mirzoev, the head of the *National Congress of Kurd/Yezids of Georgia*, only around 30% at most of Kurds/Yezids speak Kurdish and this figure is much lower amongst young people. Moreover, the traditional system of religious instruction is breaking down and the two higher castes have been unable to provide proper instruction to the young, leaving many young Yezids with a very tentative grasp of their own religion. Some have converted to the Georgian Orthodox Church or have become Jehovah's Witnesses, which signifies their exit from the Kurd/Yezid community. There is therefore a danger that the Yezids in Georgia may eventually disappear.

## **6. Greeks**

According to the 2002 Census, there were 15,166 Greeks in Georgia, equivalent to 0.35% of the population. However, this number is decreasing rapidly as Greeks continue to emigrate from Tsalka district, which is the area in which they are concentrated. In 1979, there were 95,105 Greeks in Georgia (1.9% of the total population), including 30,811 in Tsalka (62.4% of the population of the district). The number left in Tsalka district today, according to figures from the district administration (*gamgeoba*), is around 1,500. Most of those who have left have taken up residence in Greece. As well as the Greeks of Tsalka, there are also small Greek populations in the neighbouring district of Tetrtsqaro, as well as in Borjomi and Kobuleti districts. Most of the Greeks living in Tsalka district arrived as refugees from the Ottoman Empire and therefore speak Ottoman Turkish, rather than Greek. A few Greek communities, especially in Adjara and Abkhazia, speak Pontic Greek. Outside Tsalka, Greeks tend to speak Russian or (less frequently) Georgian in most social situations. Greeks in Georgia belong to the Greek Orthodox Church. There are no Greek schools in Georgia, although in a few schools Greek can be studied as a foreign language.

The main problem faced by the Greek community in Georgia is that of emigration. The problem is particularly acute in Tsalka, where almost all young Greeks have left and those that remain are elderly and vulnerable to attack by criminals. In recent years there have been a

number of reports of Greeks in Tsalka being the victims of robbery, mugging and even murder as migrants from other parts of Georgia enter the region in search of land and employment.

### ***7. Kists***

The Kists are Vainakhs, originally from the northern Caucasus, who over the centuries arrived in parts of the Kakheti region of Georgia. The Kist population has fluctuated somewhat in recent years as there have been frequent waves of migration from Georgia to the Russian Federation and vice versa. Following the recent conflict in Chechnya, many Georgian Kists who had moved to Chechnya in the 1980s and early 1990s returned to Georgia. As a result, their population grew from 5,455 in 1989 to 7,110 (or 0.16% of the population) in 2002, according to census figures. The Kists are concentrated in the Akhmeta district of Kakheti, where they make up 16.6% of the population. They mainly live in the Pankisi Valley, and make up a majority of the population in the villages of Duisi, Tsinubani, Zemo Khalatsani, Kvemo Khalatsani, Shua Khalatsani and Joqolo. Kists are Muslims; traditionally they adhere to Sufism (albeit blended with elements of paganism), although a small minority (mainly young men) declare their allegiance to the Wahhabist sect of Sunni Islam. They speak a vernacular related to Chechen and Ingush, which belong to the northern Caucasian family of languages. There are no special Kist schools in Georgia and most Kists speak fluent Georgian, as well as their mother tongue.

The most difficult issue for the Kist population is the threat of being stigmatised by the rest of the population for an assumed association with terrorism. The Pankisi Valley achieved notoriety in the early 2000s, when it was portrayed as a haven for terrorists. Although there is no evidence whatsoever linking the Kist population to terrorist attacks, the fact that a few of their number adhere to Wahhabism means that the whole community is viewed with suspicion by much of Georgia's population.

## **8. Ukrainians**

According to the 2002 population census, there are 7,039 Ukrainians in Georgia, in other words 0.16% of the total population. Their population has declined very rapidly in recent years; in 1979 there were 45,036 Ukrainians – 0.9% of the population. Today Ukrainians are mainly concentrated in urban centres of Georgia such as Tbilisi and Batumi. There are no special education facilities for them, although the Ukrainian language is taught at the Ukrainian Cultural Centre in Tbilisi and in Sunday schools across Georgia. There are also unions for dance, singing and culture.<sup>59</sup>

## **9. Jews**

Since 1970 most Georgian Jews have emigrated to Israel. From 28,298 in 1979, the Jewish population of Georgia had fallen to 24,720 by 1989 and to 3,772 by 2002, or 0.09% of the population, according to the relevant population censuses. In 1979, Jews made up 1.4% of the population of Tbilisi, 2.1% of the population of Kutaisi and 7.0% of the population of Oni district. Today the few Jews living in Georgian are concentrated mainly in the urban centres. Despite the small numbers, a large number of privately-funded facilities exist to help Georgia's Jewish community preserve its culture. These include a Jewish day school, a library, several Sunday schools for children and adults, and two kindergartens, an educational centre and an Open University supported by the *American-Jewish Joint Distribution Centre*.<sup>60</sup>

## **10. Abkhaz**

Even before the 1992-93 war in Abkhazia, there were very few Abkhaz outside the Autonomous Republic of Abkhazia. In 1989, the Abkhaz population made up 17.8% of the population of Abkhazia. Today, after the expulsion of almost all Georgians from Abkhazia,

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<sup>59</sup> Federal Union of European Nationalities, *Fact-Finding Mission to Georgia October 2000*.

<sup>60</sup> Data from NCSJ, <http://www.ncsj.org/Georgia.shtml>.

the figure is probably close to 50%. Outside Abkhazia, according to the 2002 population census, there were 3,527 Abkhaz, or 0.08% of the total population. In particular, a few Abkhaz remain in Adjara, where they make up 0.4% of the population. Most Abkhaz are Orthodox Christians, although amongst their number are a significant minority of Muslims.

### *11. Assyrians*

According to the 2002 population census, there are 3,299 Assyrians in Georgia or 0.08% of the total population of Georgia. The biggest groups of Assyrians are located in Tbilisi, in Gardabani and in the village of Dzveli Kanda in Mtskheta district. Around 80% of Assyrians are Orthodox Christian (both Georgian and Russian Orthodox) and about 20% are Roman Catholics. The mother tongue of the Assyrians is the Syriac language, which belongs to the Aramaic branch of the family of Semitic languages and has its own highly distinctive Syriac alphabet. Although most Assyrians can speak their own language, only a minority can write it. There are no Assyrian schools in Georgia.

The main problem facing the Assyrian community is the fact that they are a small minority with no kin state outside Georgia and therefore they receive very little material support. West of Tbilisi (for example in the village of Kanda) they face assimilation into the Georgian population as they are surrounded by Georgian communities and many young people no longer know the Assyrian language. In Tbilisi, Rustavi and Gardabani, on the other hand, Assyrians have problems integrating due to their poor knowledge of Georgian.

### *12. Others*

Other smaller nationalities in Georgia include Roma, Germans, Tatars, Belorussians, Poles, Lithuanians, Czechs, Chechens, Moldovans, Avars and Udi. Of these the Udi are worth a special mention, as their language is a modern descendent of Caucasian Albanian, a language that was written in its own alphabet. The only village in which they inhabit, Oktomberi in Kvareli district of Kakheti, is one of only two villages in the world (the other being Nij in



Azerbaijan) where the Udi language is spoken. Both the Udi as a national group and their language are therefore in severe danger of extinction.